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**The Parliament of the Republic of Kazakhstan.
The organisation of work, competences and legal status of deputies**

Keywords: The Republic of Kazakhstan, legislature, unicameral parliament, bicameral parliament, deputy, presidential system

Słowa kluczowe: Republika Kazachstanu, legislatura, jednoizbowy parlament, dwuizbowy parlament, deputowany, system prezydencki

Summary

According to the Constitution of the Republic of Kazakhstan of 30 August 1995, Kazakhstan has a presidential form of government. The executive power in Kazakhstan has two branches, i.e. it consists of the head of state – the President of the Republic – who is elected for the period of seven years in general, equal, direct and secret elections, and of the government, which is accountable to the President and the Parliament.

On the basis of the provisions of chapter 12 of the Constitution of the Republic of Kazakhstan of 28 January 1993, the unicameral parliament called the „Supreme Council” was the only representative and legislative body of the Republic. Two years later, in the referendum held in August 1995, citizens voted for the establishment of a bicameral parliament.

The work and activity of the legislative branch, its structure and powers, is regulated by the Constitution of the Republic of Kazakhstan, The Constitutional Law № 2529 of 16 October 1996 entitled On the Parliament of the Republic of Kazakhstan and the Status of Its Deputies as well as other acts, such as parliamentary rules of procedure of both chambers or the Regulations of the Parliament of the Republic of Kazakhstan adopted by both chambers of the Parliament of the Republic of Kazakhstan at their joint session on 20 May 1996.

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As stipulated in art. 49 of the Constitution, the bicameral Parliament of the Republic of Kazakhstan is the highest representative body of the Republic performing legislative functions.

The Parliament of the Republic of Kazakhstan is a classic example of a passive legislature, which is dominated by the president, the presidential political party, and which has a low level of autonomy. To sum up, it must be noted that parliaments are undoubtedly institutions which should be considered as the bodies conducive to the stability of a political system. According to P. Norton and D.M. Olson, such stability can be achieved when there is the balance of legitimisation within the system.

Streszczenie

Parlament Republiki Kazachstanu. Organizacja, kompetencje i status prawny posłów

Zgodnie z Konstytucją Republiki Kazachstanu z 30 sierpnia 1995 r. Kazachstan jest państwem o ustroju prezydenckim. Władza wykonawcza w Kazachstanie jest egzekutywą dwuczłonową, tj. składa się z wybieranej na okres siedmiu lat w wyborach powszechnych, równych, bezpośrednich i tajnych głowy państwa – prezydenta republiki, oraz odpowiedzialnego przed prezydentem i parlamentem rządu.

W oparciu o postanowienia rozdziału 12. Konstytucji Republiki Kazachstanu z 28 stycznia 1993 r. jednoizbowy parlament występujący pod nazwą „Rada Najwyższa” stanowił jedyny organ przedstawicielski i ustawodawczy republiki. Dwa lata później, w sierpniu 1995 r., w trakcie referendum ogólnokrajowego biorący w nim udział obywatele opowiedzieli się za utworzeniem parlamentu dwuizbowego.

Organizację i działalność władzy ustawodawczej, jej strukturę i kompetencje, reguluje Konstytucja Republiki Kazachstanu, Ustawa Konstytucyjna № 2529 z 16 października 1996 r. zatytułowana O parlamencie Republiki Kazachstanu i statusie jego deputowanych oraz inne akty, m.in. regulaminy parlamentarne obu izb, czy też przyjęty podczas wspólnej sesji obu izb parlamentu Republiki Kazachstanu w dniu 20 maja 1996 r. Regulamin parlamentu Republiki Kazachstanu.

Jak przewiduje art. 49 konstytucji, dwuizbowy parlament Republiki Kazachstanu jest najwyższym przedstawicielskim organem Republiki wykonującym funkcje ustawodawcze. Parlament Republiki Kazachstanu jest klasycznym przykładem legislatury biernej, zdominowanej przez prezydenta, prezydencką partię polityczną, i posiadającej niski poziom autonomii. Podsumowując, warto odnotować, że parlamenty są niewątpliwie instytucjami, które należy traktować jako organy sprzyjające stabilizacji systemu politycznego. Stabilność taka zaś – zdaniem Philipa Nortona i Davida M. Olsona – może zostać osiągnięta wtedy, gdy istnieje równowaga legitymizacji wewnątrz systemu.

I.

The Republic of Kazakhstan (Казакстан Республикасы, Qazaqstan Respublikası) is a vast, varied and multicoloured country with rich history and full of contrasts². It was established following the collapse of the Soviet Union, although we should note that Kazakhstan was the last Soviet republic to proclaim independence – on 16 December 1991³. Kazakhstan lies in central Asia in the Eurasian continent⁴ in the region, in which – as Jacek Sozański puts it – the interests of its powerful neighbours, the People's Republic of China and Russian Federation, intersect. These interests are of a varied nature. Firstly, they focus on the energy sector, the arms industry, mining and the cultural and educational field. Secondly, they are reflected in the pressure exerted on the regional leader, or in the construction of security structure, i.e., the Shanghai Cooperation Organisation or NATO⁵.

It must be emphasized here that it is this complex geopolitical position that determines Kazakhstan's policy directions today, as both China and Russia are constantly trying to play the leading role in this area, getting directly involved in the political and economic issues of this country⁶.

² On 10 December 1997, President N. Nazarbayev declared that Astana (formerly known as Amkola) becomes the new capital of Kazakhstan. In the Kazakh language Astana means the capital. The former capital was Almaty – „a city full of apples” (known as Alma-Aty before). See: I. Słomińska-Szkutowicz, *Przemiany społeczne w Kazachstanie*, [in:] *Kazachstan. Polityka wewnętrzna i zagraniczna*, ed. W. Baluk, Wrocław 2009, p. 82.

³ It should be noted here that 80% of Kazakh citizens backed the idea of the preservation of the Soviet Union in the referendum held on 17 March 1991. W. Baluk, *Przemiany polityczne w Kazachstanie po upadku ZSRR*, [in:] *Kazachstan. Polityka...*, p. 49. On 25 October 1990, Kazakhstan declared independence.

⁴ 88% of the territory Kazakhstan lies in Asia. For more details see: P. Grochmalski, *Kazachstan. Studium politologiczne*, Toruń 2006.

⁵ J. Sozański, *Znaczenie geopolityczne Kazachstanu w stosunkach międzynarodowych*, [in:] *Kazachstan. Polityka...*, pp. 97–98. See also: G.R. Capisani, *Nowe państwa Azji Środkowej*, Warsaw 2004, pp. 42–45.

⁶ J. Sozański, *Znaczenie geopolityczne Kazachstanu w stosunkach międzynarodowych*, [in:] *Kazachstan. Polityka...*, p. 91. See also: M.W. Duda, *Stosunki kazachsko-chińskie*, [in:] *Kazachstan. Polityka...*, pp. 125–141.

Kazakhstan is the ninth largest country in the world as far as the size of its territory (eight and a half times bigger than Poland) is concerned. It has a population of 17 million people⁷. It is a multinational state, with Kazakhs accounting for over fifty percent of its population. The other nationalities inhabiting Kazakhstan include: Russians, Germans, Ukrainians, Uzbeks, Tatars, Uyghurs, Lithuanians, Belarusians, Azers, Koreans, and from 60 000 to 100 000 Poles⁸. Since 21 December 1991, Kazakhstan has been a member of the Commonwealth of Independent States. Moreover, it participates in the work of a number of international organisations, such as the United Nations, the World Trade Organisation, the Organisation for Security and Co-operation in Europe, Santa Cruz Operation, the Economic Cooperation Organisation, the Eurasian Economic Union, and the Organisation of Islamic Cooperation.

There are speculations – which are subject to doubt, though – that the word „Kazakh” comes from the Turkish word *qazaq*, which could be translated as a „free man”. Kazakhs believe that they were the first people in the world to mount a horse. They claim that the word „Kazakh” means a horse rider, a wandering steppe man⁹. As Jan Patrak indicates, Kazakhs etymologically refer to „wanderers, who are isolated from the country and who do not recognize state power”¹⁰. Kazakhstan belongs to the elite group of the biggest oil and natural gas exporters in the world¹¹. The economy of Kazakhstan, thanks to rich mineral sources, has been developing at a very fast pace

⁷ On 15 May 2013, the seventeen millionth citizen of Kazakhstan was born. The population of Kazakhs outside Kazakhstan is 11 million. See: A. Smailov, *Kazakhstan's population reached 17 million people*, <http://www.inform.kz/eng/article/2558103> (16.11.2013). See also: *The Agency of Statistics of the Republic of Kazakhstan*, <http://www.eng.stat.kz/Pages/default.aspx> (17.06.2013) See also: С.К. Игибаев, *Казахстан: история и современность* (Выступление на встрече с представителями студенчества Вроцлавского университета), [in:] *Kazakhstan. Polityka...*, p. 13.

⁸ *Kazakhstan. Historia – społeczeństwo – polityka*, eds. T. Bodio, K.A. Wojtaszczyk, Warszawa 2000.

⁹ A. Komoda, *Kazach znaczy „wolny człowiek”*, [in:] *Kazakhstan. Polityka...*, p. 18. See also: M. Janion, *Niesamowita słowiańszczyzna*, Kraków 2007, p. 167 and http://kazakhstan.orexa.com/kazakhstan_history.shtml (12.11.2013).

¹⁰ J. Patrak, *Zarys historii Kazachstanu do 1991 r.*, [in:] *Kazakhstan. Polityka...*, p. 37.

¹¹ P. Skoczylas, *Analiza sytuacji gospodarczej Republiki Kazachstanu*, [in:] *Kazakhstan. Polityka...*, pp. 63–64. See also: J. Sozański, *Znaczenie geopolityczne Kazachstanu w stosunkach międzynarodowych*, [in:] *Kazakhstan. Polityka...*, pp. 95–96.

recently. As a result, the country is playing an increasingly important role at the international scene, also in the political field. Kazakhstan is the largest global exporter of uranium; it is also the leading oil, natural gas and cotton exporter in the world. The average annual income is 11,000 dollars per person, which is twice as much as in Turkmenistan and six times more than in Uzbekistan¹².

As experts indicate, Kazakhstan is a legally and politically stable country. This statement is confirmed by positive data concerning the corruption threat index. Kazakhstan is ranked second after Georgia in the world ranking among former Soviet republics¹³. It is also placed high in the *Doing Business 2011* ranking, which classifies countries according to the bureaucracy index. Kazakhstan is ranked 59th in the world, being ahead of Poland by eleven positions. What is also important, the GDP of Kazakhstan did not decline in the time of the global economic crisis. It must be pointed out that as the result of the implementation of numerous reforms in the field of enterprises, market and trade, financial institutions and infrastructure, Kazakhstan is considered to be the leader in the region in the sphere of market transformations¹⁴.

II.

According to the Constitution of the Republic of Kazakhstan of 30 August 1995¹⁵, Kazakhstan has a presidential form of government. As art. 1 par. 1 of the fundamental law stipulates, „The Republic of Kazakhstan proclaims itself a democratic, secular, legal and social state whose highest values are an individual, his life, rights and freedoms”¹⁶. The catalogue of basic govern-

¹² *Not-quite-eternal Nursultan*, „The Economist”, 17.12.2011, <http://www.economist.com/node/21541853> (12.11.2013). See also: G.R. Capisani, op.cit, pp. 74–80.

¹³ It is ranked 105th in the world. See: A. Stefański, *Przegląd otoczenia instytucjonalnego w Republice Kazachstanu*, Warszawa 2011, pp. 2–3.

¹⁴ Ibidem.

¹⁵ <http://www.parlam.kz/ru/constitution> (25.11.2013). See also: art. 4 par. 1 *The Constitution of the Republic of Kazakhstan*, „Ведомости Парламента Республики Казахстана” 1996 г., № 4, ст. 217; 1998 г., № 20, ст. 245.

¹⁶ <http://www.parlam.kz/ru/constitution> (25.11.2013).

ment principles in Kazakhstan includes: the principle of the nation's sovereignty, the principle of the democratic state of law, the principle of political and religious pluralism.

The executive power in Kazakhstan has two branches, i.e. it consists of the head of state – the President of the Republic – who is elected for the period of seven years in general, equal, direct and secret elections, and of the government, which is accountable to the President and the Parliament¹⁷.

According to art. 3 par. 3 of the Constitution of the Republic of Kazakhstan, the right to act on behalf of the nation and the state belongs exclusively to the President and the Parliament of the Republic within the limits of their constitutional powers. The government and other state bodies act on behalf of the state only within the limits of their delegated authorities. Art. 3 par. 4 of the fundamental law specifies the unified character of the state power, which, on the basis of the Constitution and laws, is executed in accordance with the principle of tripartite division in the form that guarantees cooperation between its parts based on a system of checks and balances that governs their interaction. It must be noted here, however, that the articles of the fundamental law specify that it is the President who coordinates the work of state bodies¹⁸.

As Walery Baluk indicates, „political reforms in Kazakhstan followed the Moscow model”¹⁹. The President of the Republic has very strong constitutional powers. He represents the state abroad, specifies the priorities of foreign policy, as well as establishes the directions of internal policy. He also appoints and releases from office the Prime Minister. The President acts as the Commander-in-Chief of the Armed Forces; he may adopt a resolution on conducting a referendum; he has the right of a legislative initiative and the right to veto laws passed by the Parliament. The President has the exclusive right to make amendments to the Constitution; he may dissolve the Parliament and announce early elections²⁰. Since 1999, Nursultan

¹⁷ See also: *Ustroje polityczne krajów Wspólnoty Niepodległych Państw*, ed. W. Baluk, A. Czajkowski, Wrocław 2007.

¹⁸ http://wspolnota-polska.org.pl/prawa_mniejszosci/art/Konstytucja-Republiki-Kazachstanu,23.html (11.11.2013).

¹⁹ W. Baluk, *Przemiany polityczne w Kazachstanie po upadku ZSRR*, [in:] *Kazachstan. Polityka...*, p. 49; idem, *Zarys historii Kazachstanu do 1991 r.*, [in:] *Kazachstan. Polityka...*, p. 45.

²⁰ It took place on 16 November 2011, when the President of Kazakhstan issued a decree on *Dismissing the Lower Chamber of the Parliament of the Republic of Kazakhstan of the*

Nazarbayev has continuously been the President of Kazakhstan²¹. In the last elections, which were held in April 2011, he received 79.78% of the votes. The Constitution, amended in 2007, does not limit the number of presidential terms. The work of government bodies is supervised by the Government. As it was indicated above, the President of the Republic has a very strong position in the system of state authority. On the basis of art. 44 of the *Constitution of the Republic of Kazakhstan*²² of 30 August 1995, he has a number of powers, which he also executes in the sphere of relations with the Parliament. Not only does the President convoke the first session of the Parliament, but he also has the right to dissolve it (or only the Majilis) after consulting the Chairpersons of the Parliament Chambers and the Prime Minister. This right, however, does not entitle the President to dissolve the Parliament in the period of a state of emergency or martial law, in the last six months of the President's term, as well as within the period of one year after a previous dissolution (art. 63 par. 2 of the Constitution of the Republic of Kazakhstan and art. 36 par. 1–3 of The Constitutional Law № 2529 On the Parliament of the Republic of Kazakhstan and the Status of Its Deputies of 16 October 1996)²³.

In the legislative sphere, the head of state has the right to specify priority consideration of a draft of laws and to declare consideration of a draft of law urgently signifying that the Parliament must debate on this draft within a month from the day it was submitted. If the Parliament does not fulfil this requirement, the President of the Republic has the right to issue a decree having the force of law which will be in effect until the Parliament adopts a new law as established by the Constitution (art. 17 par. 2 of the Constitutional Law № 2529). When exercising his legislative powers, the President also uses

fourth term and setting early elections for Lower Chamber of the Parliament of the Republic of Kazakhstan, www.almaty.trade.gov.pl (13.11.2013).

²¹ From 1984, Nursultan Nazarbayev was the Secretary General of the Communist Party of the Kazakh Socialist Soviet Republic. In April 1990, on the basis of the decision of the Supreme Council, he was elected the President of the Kazakh SSR. On 1 December 1991, he won the general presidential election in independent Kazakhstan. He received 98.6% of the votes, with the attendance of 88%. J. Patrak, *Zarys historii Kazachstanu do 1991 r.*, [in:] *Kazachstan. Polityka...*, p. 45.

²² <http://www.parlam.kz/ru/constitution> (25.11.2013).

²³ <http://www.parlam.kz/ru/constitution>; <http://www.parlam.kz/ru/status> (25.11.2013).

the right of the legislative veto as stipulated in the Constitution and in art. 20 of the Constitutional Law № 2529²⁴.

We should also mention that one of the most important constitutional instruments which makes it possible for the head of state to perform tasks in the legislative sphere is the institution of the President Representation in Parliament. Its main tasks involve undertaking all necessary action in order to ensure that the head of state exercises his constitutional and statutory powers and rights concerning the Parliament and its deputies²⁵. There is also the Government Representation in the Parliament. It is a unit in the structure of the Chancellery of the Prime Minister of the Republic of Kazakhstan. It was appointed for representing the Government's interests in the assembly. Its purpose is to ensure permanent cooperation of the Government with the Parliament Chambers, its bodies and particular deputies²⁶.

The judiciary in Kazakhstan is the independent court system with the Supreme Court as its highest institution. The Constitutional Council plays the role of the constitutional court. The prosecutor's bodies are subordinate to the President of the Republic exclusively.

In the doctrine, legislatures are divided on the basis of their internal organisation into unicameral and bicameral ones. In the European Union, Scandinavian countries have unicameral legislative assemblies. Unicameralism is also adopted as a principle in most European „young democracies”. Bicameral parliaments exist in such countries as France, Germany, and Great Britain²⁷. It should also be mentioned that at the end of the 20th century the Republic of South Africa had a tricameral legislative assembly, which was composed on the basis of the racial criterion: the House of Assembly consisted of whites, the House of Representatives was composed of the Coloureds, and the House of Delegates included Indians²⁸.

²⁴ <http://www.parlam.kz/ru/status> (25.11.2013).

²⁵ Е.Б. Абдрасулов, Ж.К. Асанов, В.А. Доскалов, Н.Н. Турецкий, *Парламентское право Республики Казахстан*, Алмаиы 2011, pp. 63–64.

²⁶ Ibidem, s. 65.

²⁷ For more details see: W. Skrzydło, *Ustrój polityczny RP*, Bydgoszcz 2001; see also: M. Chmaj, *Sejm Rzeczypospolitej Polskiej w latach 1991–1997. I i II kadencja. Studium prawnoustrojowe*, Warszawa 1999, p. 198.

²⁸ Е.Б. Абдрасулов, Ж.К. Асанов, В.А. Доскалов, Н.Н. Турецкий, *Парламентское...*, p. 59.

III.

The advocates of unicameral parliaments indicate the advantages of this solution emphasizing the speed of the legislative process in such a legislature, its greater stability and integrity. They also point out that there is no risk of overlapping powers of chambers and there is no threat of tension resulting from the differences of opinion between them. Moreover, they indicate that such solutions generate smaller budget expenses. Their opponents claim that the bicameral model has the advantage of the better quality of laws it produces²⁹.

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The work and activity of the legislative branch, its structure and powers, is regulated by the Constitution of the Republic of Kazakhstan, The Constitutional Law № 2529 of 16 October 1996 entitled On the Parliament of the Republic of Kazakhstan and the Status of Its Deputies³¹ as well as other acts³², such as parliamentary rules of procedure of both chambers or the Regulations of the Parliament of the Republic of Kazakhstan adopted by both chambers of the Parliament of the Republic of Kazakhstan at their joint session on 20 May 1996³³.

²⁹ Ibidem.

³⁰ Ibidem.

³¹ The Constitutional Law № 2529, On the Parliament of the Republic of Kazakhstan and the Status of Its Deputies, <http://www.parlam.kz/ru/constitution> (25.11.2013).

³² See: art. 3, ibidem.

³³ „The Procedural Order of the Republic of Kazakhstan establishes conditions and the order of joint sessions of Chambers, the mechanism of mutual relations of Chambers on the questions not settled by the Procedural Order of the Senate and the Majilis, the formation of joint bodies of Parliament and the organisation of their activity, as well as the execution of powers of deputies and officials of Parliament”. See: Preamble to the *Regulations of the Parliament of the Republic of Kazakhstan*, http://www.parlam.kz/ru/regulation#_Toc334540776 (15.11.2013).

As stipulated in art. 49 of the Constitution, the bicameral Parliament of the Republic of Kazakhstan is the highest representative body of the Republic performing legislative functions.

IV.

The constitutional law literature assumes that the Kazakh parliament is autonomous and is not subordinate to any other bodies of state authority. Its autonomy and independence is first of all guaranteed by Chapter 4 of the Constitution of the Republic of Kazakhstan, which specifies the special constitutional and legal status of the legislature. The provisions included in this section of the fundamental law specify, among other things, the powers of both chambers and the procedures of establishing their composition. What is important, the Kazakh parliament, by independently exercising its legislative function, is entitled to produce generally applicable laws³⁴.

There is a view in the doctrine, according to which the Senate is the upper house, while the Majilis is the lower house of the Parliament. The interpretation of articles of the Constitution of the Republic of Kazakhstan, however, contradicts this opinion. The Kazakh fundamental law does not include – like it is the case in Poland – such notions. Therefore, we should assume that both chambers of the Kazakh legislature are equal in the political system. The parliamentary practice, particularly the course of the legislative procedure, shows that it is actually the Senate that exercises the functions of the upper house, while the Majilis is the lower chamber of the parliament³⁵. The term of the members of the Senate, which represents the interests of local governments, as well as the national-cultural and other important interests of the society, lasts six years³⁶. According to art. 50 par. 2 of the Constitution of the Republic of Kazakhstan and art. 4 par. 2–3 of On the Parliament of the

³⁴ Е.Б. Абдрасулов, Ж.К. Асанов, В.А. Доскалов, Н.Н. Турецкий, *Парламентское...*, p. 69.

³⁵ Ibidem, p. 60.

³⁶ See: art. 50 par. 5 The Constitution of the Republic of Kazakhstan and art. 2 par. 1, The Constitutional Law № 2529, *On the Parliament of the Republic of Kazakhstan and the Status of Its Deputies*, <http://www.parlam.kz/ru/status> (10.11.2013).

Republic of Kazakhstan and the Status of Its Deputies, the Senate is composed of 47 members, 32 of which are selected by regional authorities (two people from each oblast, major city and the capital of the Republic). Such an electoral formula enables equal representation of regions in the Chamber. Senators are chosen in the direct electoral system under secret ballot, which involves the participation of special electors, who are maslichat councillors, rather than ordinary citizen-voters. Hence, the Senate is composed in two ways – by election and appointment³⁷.

The Majilis is the house of nationwide representation. Its deputies exercise their mandate for the period of five years³⁸. Regular elections to the Majilis should be held no later than two months before the termination of the powers of the current Parliament (art. 51 of the Constitution of the Republic of the Kazakhstan)³⁹. The Majilis is composed of one hundred and seven deputies. Ninety eight deputies are chosen in direct proportional elections. The electoral threshold is 7% for a party. Nine deputies are chosen in indirect elections held by the Assembly of the Nations of Kazakhstan, a consultative body appointed and headed by the President and representing the country's all ethnic groups⁴⁰.

A deputy of the Parliament cannot be a member of both the Senate and the Majilis simultaneously (art. 50 par. 4 of the Constitution and art. 4 par. 5 of the Constitutional Law: On the Parliament of the Republic of Kazakhstan and the Status of Its Deputies)⁴¹.

As the fundamental law stipulates, a deputy of Parliament may only be a citizen of Kazakhstan who has been its resident for the last ten years. What

³⁷ Е.Б. Абдрасулов, Ж.К. Асанов, В.А. Доскалов, Н.Н. Турецкий, *Парламентское...*, s. 60, <http://www.parlam.kz/ru/constitution>, <http://www.parlam.kz/ru/status> (25.11.2013).

³⁸ See: art. 50 par. 5 of *The Constitution of the Republic of Kazakhstan* and art. 2 par. 1, The Constitutional Law № 2529, *On the Parliament of the Republic of Kazakhstan and the Status of Its Deputies*, <http://www.parlam.kz/ru/status> (10.11.2013).

³⁹ <http://en.government.kz/docs/konstitutziya.htm> (10.11.2013).

⁴⁰ http://odfoundation.eu/files/elect_monitor/12.12.2011_ODF_Kr%C3%B3tkie%20podsumowanie%20przedterminowych%20wybor%C3%B3w%20do%20parlamentu_PL.pdf (20.11.2013). On the basis of the amended law, at present – as stipulated by art. 97 par. 1 p. 2 of the law on elections – at least two different parties will have to have its representatives in the Majilis. See also: <http://www.parlam.kz/ru/constitution> (15.11.2013).

⁴¹ <http://www.parlam.kz/ru/constitution>, <http://www.parlam.kz/ru/status> (25.11.2013).

is worth emphasizing here is the fact that, unlike in the case of candidates for the post of the President, it does not matter whether a given person is a citizen by birth or by naturalisation. A deputy of the Senate may be a citizen of the Republic of Kazakhstan who has reached thirty years of age, has a university degree and has worked for not less than five years, and has been the permanent resident of a given oblast, major city or the capital of the Republic for not less than three years. A deputy for the Majilis may be a citizen of the Republic of Kazakhstan who has reached twenty five years of age (art. 51 par. 4 of The Constitution of the Republic of Kazakhstan). Moreover, the constitutional law On Elections in the Republic of Kazakhstan requires from candidates to have clean disciplinary record⁴².

According to art. 55 of the Constitution, the exclusive jurisdiction of the Senate includes, among other things, the election and release from office of the Chairperson and judges of the Supreme Court upon the motion of the President of the Republic of Kazakhstan, as well as swearing them into office; approval of the appointment of the Procurator General, the Chairperson of the National Bank and the Chairperson of the Committee of National Security by the President of the Republic of Kazakhstan; the deprivation of inviolability of the Procurator General, the Chairperson and judges of the Supreme Court of the Republic⁴³.

On the basis of art. 56 of the fundamental law, the exclusive jurisdiction of the Majilis includes, among other things, accepting drafts of laws for consideration and the consideration of the drafts of laws, as well as announcing elections for the President of the Republic. The Majilis has also the right to pass, at the initiative of not less than one fifth of all deputies of the Chamber, a motion of no confidence to the government by the majority vote of all members of the Chamber⁴⁴.

As art. 1 The Constitutional Law On the Parliament of the Republic of Kazakhstan and the Status of Its Deputies stipulates, „Parliament is the highest representative body of the Republic performing legislative functions”⁴⁵. The Parliament, while exercising its lawmaking function, has the right to legislate by

⁴² <http://www.parlam.kz/ru/constitution> (25.11.2013).

⁴³ Ibidem.

⁴⁴ Ibidem.

⁴⁵ <http://www.parlam.kz/ru/status> (25.11.2013).

passing generally applicable laws, constitutional laws and individual decisions. The right of a legislative initiative belongs to the Parliament, the President and the Government (art. 61 of The Constitution of the Republic of Kazakhstan and art. 15 of the constitutional law № 2529)⁴⁶. Moreover, within its powers the Parliament has the right to adopt appeals, declarations, references, and other acts of not a legislative character. It adopts them under the conditions and requirements established by the Procedural Orders of Parliament and its Chambers, which issue resolutions specifying conditions and the order of carrying out joint and separate sessions of the Chambers, the establishment of their bodies and the organisation of their activity, as well as the execution of powers of deputies and officials of the Parliament (art. 13 and 14 of the Constitutional Law № 2529)⁴⁷.

The Parliament also exercises powers as regards issuing laws that regulate the most important public relations, establishing fundamental principles and standards in the spheres specified by law (art. 16 of the Constitutional Law № 2529). Laws passed by the Parliament come into effect after they are signed by the President within 15 days (art. 44 of the Constitution of the Republic of Kazakhstan and art. 19 of the Constitutional Law № 2529)⁴⁸.

The Parliament of the Republic of Kazakhstan performs tasks of a creative character as well. It has powers to appoint and release from office top state officials, exercising them by approving or disapproving candidates for the Prime Minister and the Chairperson of the National Bank of the Republic appointed by the President. The President also receives „the Senate’s consent to appoint the Procurator General and the Chairperson of the Committee of National Security of the Republic, for election by the Senate and release from office the Chairperson of the Supreme Court, Chairmen of boards and judges of the Supreme Court of the Republic, for election by the Majilis and release from office the Chairperson, the Deputy Chairperson, the secretary and members of the Central Election Commission of the Republic, introduces into Parliament respective written proposals, on the basis of which the decision on the inclusion of a respective question in the agenda of the nearest joint session of Chambers of Parliament or respective Chamber is made” (art. 21 and 22 par. 1 of the Constitutional Law № 2529). The procedu-

⁴⁶ <http://www.parlam.kz/ru/constitution> (25.11.2013).

⁴⁷ <http://www.parlam.kz/ru/constitution>, <http://www.parlam.kz/ru/status> (25.11.2013).

⁴⁸ Ibidem.

re of appointing or discharging from office was specified in art. 21 par. 2–8 and art. 22 of this law⁴⁹.

The principles of the international, inter-parliamentary cooperation with legislatures from other countries have been established in Section VIII of the Regulations of the Parliament of the Republic of Kazakhstan. On this basis, the Chairpersons of the Chambers of the Parliament of the Republic of Kazakhstan may set up relations with legislatures of other countries (art. 125 of The Regulations...)⁵⁰.

As art. 49 par. 2 of the Constitution of the Republic of Kazakhstan stipulates, the Parliament's powers begin from the opening of its first session and expire with the first session of a new convocation⁵¹.

The Chambers of the Parliament of the Republic of Kazakhstan hold joint⁵² or separate sessions⁵³, at which the quorum is not less than two thirds

⁴⁹ <http://www.parlam.kz/ru/status> (25.11.2013).

⁵⁰ <http://www.parlam.kz/ru/regulation> (25.11.2013).

⁵¹ <http://www.parlam.kz/ru/constitution> (30.11.2013).

⁵² Art. 53 of The Constitution of the Republic of Kazakhstan specifies the range of issues considered at joint sessions of both parliamentary chambers. They include, among other things, introducing changes and additions to the Constitution at the proposal of the President; accepting the reports of the Government and the Accounts Committee on the execution of the budget; expressing a vote of no confidence in the Government in case the Government's report on the execution of the budget has not been approved; delegating legislative powers for a period of no more than one year to the President by the majority vote of two-thirds of the total number of deputies of each chamber at the initiative of the President; deciding on the issues of war and peace; sending armed forces upon the motion of the President in order to fulfil international obligations; forming and dissolving joint parliamentary commissions, electing and releasing from office their chairpersons; hearing reports on the activity of the commissions, <http://www.parlam.kz/ru/constitution> (25.11.2013).

⁵³ Art. 54 specifies the range of issues considered at separate sessions of both chambers – first by the Majilis, and then by the Senate. They include issues such as: adopting laws; confirming the budget and introducing changes and additions to the budget; establishing and changing state taxes and fees; handling the issues of the administrative-territorial division of the Republic of Kazakhstan; establishing state awards, honorary, military and other titles, ranked positions, diplomatic ranks of the Republic of Kazakhstan, and defining state symbols of the Republic; deciding on the issues of state loans and the economic and other assistance provided by the Republic; issuing acts of amnesty to citizens; ratifying and denouncing international treaties of the Republic; launching an initiative calling for an all-nation referendum. See also: 59, The Constitution of the Republic of Kazakhstan, <http://www.parlam.kz/ru/constitution> (25.11.2013).

of the total number of deputies of each of the Chambers⁵⁴. The first session of the Parliament – which was mentioned earlier – is convened by the President of the Republic. In accordance with the present law, it must take place not later than thirty days from the publication of the election results⁵⁵. What is important, the Parliament performs its tasks from its opening session to the first day of the work of the Parliament of the new term. As the doctrine puts it, the powers of the Parliament of the Republic and its deputies are valid until the work of the chambers of the new term commences, with the exception of the early termination of the powers of a body or its deputies⁵⁶.

Regular sessions of the Parliament are held once a year, since the first working day of September and finishing last working day of June. A session of the Parliament is opened by the President of the Republic, who may be replaced by the Chairperson of the Majilis. Between sessions, the President of the Republic may call an extraordinary joint session of the chambers at his

⁵⁴ See art. 7 of the Constitutional Law № 2529, <http://www.parlam.kz/ru/status> (30.11.2013). Issues considered at separate sessions of the chambers (first by the Majilis, and then in the Senate) are regulated in Section IV of The Regulations of the Parliament of the Republic of Kazakhstan. They include: the adoption of laws; pinioning the budget; considering legal acts of the President; an all-nation referendum; the decision on the issues of the administrative and territorial order of the Republic; the establishment of state awards, honourable, military and other ranks, ranked positions, diplomatic ranks of the Republic; the definition of the state symbols of the Republic; the decision concerning the issues of state loans and rendering of the economic and other assistance by the Republic; announcing amnesty; the ratification and denouncement of the international agreements of the Republic, http://www.parlam.kz/ru/regulation#_Toc334540782 (20.11.2013). See also: <http://www.parlam.kz/en/senate> i <http://www.parlam.kz/kk/mazhilis> (25.11.2013).

⁵⁵ Art. 6 par. 2 of the Constitutional Law № 2529, On the Parliament of the Republic of Kazakhstan and the Status of Its Deputies. See also: art. 1–4 in Section I entitled „General Provisions” of The Regulations of the Parliament of the Republic of Kazakhstan and Section II entitled „Conditions and the Order of Carrying out the Joint Sessions of the Chambers of Parliament” (art. 5–28), which provides details of the procedure and principles of joint sessions of the Parliament. This part of the act includes the provisions concerning the duration of sittings, their order, the majority required in voting and the manner of voting, the rules of debates, the legislative procedure applicable at joint sessions, etc.), http://www.parlam.kz/ru/regulation#_Toc334540782 (20.11.2013).

⁵⁶ Е.Б. Абдрасулов, Ж.К. Асанов, В.А. Доскалов, Н.Н. Турецкий, *Парламентское...*, s. 65.

own initiative, upon the motion of the Chairpersons of the Chambers or of not less than one third of the total number of deputies of the Parliament. In such a case, the Parliament considers only those issues which were the cause of its convocation (art. 6 par. 4–6 of the Constitutional Law № 2529)⁵⁷.

The languages used in sessions are Kazakh and Russian⁵⁸. Sessions of both chambers have an open character. In special cases, however, the secrecy of sessions may be established (art. 8 of the Constitutional Law № 2529)⁵⁹.

The President of the Republic, the Prime Minister and ministers, the Chairperson of the National Bank, the Chairperson of the National Security Committee, as well as the secretary of state and the head of the Administration of the President of the Republic may participate in any, both open and closed, sessions with the right of vote. The officials of state and local bodies who have been summoned by the Parliament or its chambers are obliged to show up in the Parliament to submit explanations in the issues in the area of their responsibility⁶⁰.

Sessions are headed by the Chairpersons. The candidate for the position of the Chairperson of the Senate is proposed by the President of the Republic,

⁵⁷ In accordance with Section III entitled The Questions Considered at Joint Sessions of the Chambers of the Parliament. Regulations of the Parliament of the Republic of Kazakhstan, joint parliamentary sessions are convened for the following purposes: the acceptance of changes and amendments to the Constitution of the Republic; the order of the approval of the republican budget, the approval of the reports of the Government and the Accounts Committee on the execution of the republican budget; putting forward changes and amendments in the budget; the delegation of the legislative powers to the President of the Republic; the debate over the program of the Government; expressing a vote of no confidence in the Government; decisions concerning the use of the armed forces of the Republic to fulfil international obligations on the protection of peace and security; acceptance of the oath of the Chairman and members of the Constitutional Council; hearing of the annual addresses of the Constitutional Council of the Republic. Section V of this act includes regulations concerning the formation of the joint commissions of the chambers of the Parliament and the organisation of their work, http://www.parlam.kz/ru/regulation#_Toc334540782 (20.11.2013). See also: <http://www.parlam.kz/ru/status> (20.11.2013).

⁵⁸ Art. 10 Regulations of the Parliament of the Republic of Kazakhstan, http://www.parlam.kz/ru/regulation#_Toc334540782 (20.11.2013).

⁵⁹ <http://www.parlam.kz/ru/status> (25.11.2013).

⁶⁰ Е.Б. Абдасулов, Ж.К. Асанов, В.А. Доскалов, Н.Н. Турецкий, *Парламентское...*, p. 70.

while the candidate for the Chairperson of the Majilis is nominated by deputies of the Chamber. The Chairpersons are elected by the Senate and the Majilis from among the deputies who have a perfect command of the state language. The Chairperson of the Chamber is elected and released from office by the majority vote of all deputies under secret ballot (art. 9 par. 1–4 of the Constitutional Law № 2529). The Chairpersons of both Chambers have to: „convene sessions of Chambers and preside over them;; supervise the activities of the coordinating bodies of Chambers; sign acts issued by Chambers; appoint two members to the Constitutional Council of the Republic of Kazakhstan, two members of the Central Electoral Commission, three members of the Accounts Committee for the control over the execution of the budget; fulfil other duties assigned to them by the Procedural Orders of Parliament; the Chairpersons of Chambers use the right of a casting vote if the voices of deputies, in case of voting in the respective Chamber, will be divided fifty-fifty” (art. 58 The Constitution of the Republic of Kazakhstan and art. 9 par. 5–6 of the Constitutional Law № 2529)⁶¹. Moreover, the Chairperson of the Majilis has special powers concerning the opening of parliamentary sessions and convening regular joint sessions of the chambers, presiding at regular and extraordinary joint sessions of the Chambers (art. 9 par. 7 of the Constitutional Law № 2529). The Chairperson of the Majilis has two deputies. He is chosen and dismissed by deputies by a majority vote. He performs separate tasks and exercises functions in place of the Chairperson, in case of his absence or inability to fulfil his tasks which results from other circumstances. Candidates for this post are proposed by the Chairperson of the Chamber. The similar solution has been adopted for the Senate (art. 9 par. 8 of the Constitutional Law № 2529)⁶².

In accordance with the Constitutional Law On the Parliament of the Republic of Kazakhstan and the Status of Its Deputies, the work of both Chambers of the Parliament is coordinated by the Bureau of the Senate and the Bureau of the Majilis, which are appointed by the respective Chairpersons of Chambers. The duties of the Bureau include, among other things, coordinating the work of committees and commissions of the Chambers and preparing the agenda of the Chamber (art. 10)⁶³.

⁶¹ <http://www.parlam.kz/ru/constitution>, <http://www.parlam.kz/ru/status> (25.11.2013).

⁶² <http://www.parlam.kz/ru/status> (25.11.2013).

⁶³ Ibidem.

As constitutional experts indicate, commissions are the main parliamentary tool for the execution of the legislative and controlling function by the legislature. They are the „central point” of the Parliament’s legal action⁶⁴. Parliamentary commissions and committees (there should not be more than seven of them) are the internal bodies of the Kazakh parliament⁶⁵. They have the right to issue resolutions.

The Majilis of the fifth term has committees for the following area: 1) legislation and judicial-legal reform; 2) agricultural issues; 3) social and cultural development; 4) economic reform and regional development; 5) international affairs, defence and security; 6) finance and budget; 7) ecology and the use of natural resources⁶⁶.

The Senate has six standing committees dealing with the following issues: legislation and legal matters; finance and budget; international affairs, defence and security; economic and regional policy; social and cultural development; agricultural issues and environmental protection⁶⁷.

Kazakh constitutional experts point out that, unlike committees, which operate on the basis of fixed principles, the work of parliamentary commissions has a temporary character. The Majilis has: a) joint commissions – established by the Chambers and based on the principle of parity; their task is to resolve specific problems concerning the joint work of the Chambers; b) reconciliation commissions – composed of the deputies of the Senate and the Majilis for settling any differences of opinion in the legislative process; c) special interim commissions – established by the Parliament for performing the tasks specified in art. 47, points 5) and 6) of article 57 of the Constitution of the Republic of Kazakhstan⁶⁸.

⁶⁴ Z. Mansfeldová, *Central European Parliaments over Two Decades – Diminishing Stability? Parliaments in Czech Republic, Hungary, Poland, and Slovenia*, [in:] *Post-Communist Parliaments. Change and Stability in the Second Decade*, eds. D.M. Olson, G. Ilonszki, London 2012, pp. 19–24.

⁶⁵ See also: art. 60 The Constitution of the Republic of Kazakhstan, <http://www.parlam.kz/ru/constitution> (25.11.2013).

⁶⁶ Е.Б. Абдрасулов, Ж.К. Асанов, В.А. Доскалов, Н.Н. Турецкий, *Парламентское...*, p. 62.

⁶⁷ Ibidem.

⁶⁸ Е.Б. Абдрасулов, Ж.К. Асанов, В.А. Доскалов, Н.Н. Турецкий, *Парламентское...*, p. 6.

In accordance of art. 11 of the Constitutional Law under discussion, standing committees of the Parliament are established for exercising legislative work, as well as for the preliminary consideration and preparation of the questions under the authority of the Chambers. Joint commissions of the Senate and the Majilis are in turn based on the principle of party representation, and their members are chosen separately in each of the Chambers. Moreover, special interim commissions are established for the execution of special tasks in both parliamentary Chambers. The quorum at sittings of the commission is not less than two thirds of the total number of their members. Parliamentary hearings in the area of their jurisdiction may be held during the sittings of standing committees (art. 12 of the Constitutional Law № 2529)⁶⁹.

It is indicated in the literature on the subject that it is the „parliamentary factions that lay foundations for the internal organisation of a legislature”⁷⁰. On the basis of art. 34 of the Constitutional Law № 2529, deputies exercise the right to establish deputy associations in the form of factions of political parties⁷¹ (registered by the Bureau of the Majilis) and deputy groups⁷² (registered by the Bureau of Chambers of Parliament⁷³).

Parliamentary members in Kazakhstan enjoy a number of special rights and guarantees as far as the exercise of their mandate is concerned. However, they have numerous duties specified by law as well. The status of a deputy of the Parliament of the Republic of Kazakhstan is regulated by the artic-

⁶⁹ <http://www.parlam.kz/ru/status> (25.11.2013).

⁷⁰ D.M. Olson, G. Ilonszki, *Two Decades of Divergent Post-Communist Parliamentary Development*, [in:] *Post-Communist Parliaments. Change and Stability...*, pp. 127–136.

⁷¹ The minimum number of the members in the faction is specified in art. 115 and 116 of *The Regulations of the Parliament of the Republic of Kazakhstan*, http://www.parlam.kz/ru/regulation#_Toc334540782 (20.11.2013). The deputy has the right to be a member of only one deputy faction, art. 34, par. 2 of the Constitutional Law № 2529, <http://www.parlam.kz/en/status> (10.11.2013).

⁷² See also art. 117 of *The Regulations of the Parliament of the Republic of Kazakhstan*, http://www.parlam.kz/ru/regulation#_Toc334540782 (20.11.2013). The deputy group should consist of not less than fifteen deputies of the Parliament, art. 34, par. 3 of the Constitutional Law № 2529, <http://www.parlam.kz/ru/status> (25.11.2013).

⁷³ <http://www.parlam.kz/ru/status> (25.11.2013). See also art. 118 of *The Regulations of the Parliament of the Republic of Kazakhstan* and the subsequent art. from section VII entitled „Deputy Associations in the Parliament of the Republic”, http://www.parlam.kz/ru/regulation#_Toc334540782 (20.11.2013).

les of the Constitution of the Republic of Kazakhstan, the provisions of the Constitutional Law On the Parliament of the Republic of Kazakhstan and the Status of Its Deputies, particularly by its Section V entitled „The Status of Deputies of Parliament of the Republic,” and other legal acts.

Members of Parliament exercise the competence due to them beginning from the day they are registered as deputies by the Central Election Commission of the Republic. At the first joint session of the Parliament, newly elected deputies take the following oath: „I swear to serve truly people of Kazakhstan, to strengthen integrity and independence of the Republic of Kazakhstan, to submit strictly to its Constitution and laws, to carry out honestly the high duties of the deputy assigned to me” (art. 24 par. 2 of the Constitutional Law № 2529)⁷⁴.

The parliamentary mandate is terminated in cases of the death of a deputy or his absence resulting from other circumstances, his resignation or recognition of his legal incapacity, the termination of the parliamentary term, being sentenced with the court lawful decision, being recognized as unable to exercise the mandate, his permanent residence beyond the boundaries of the Republic, being elected for a deputy of another representative body, holding other paid posts (with the exception of teaching, scientific or other creative activity), running business activity, being a member of the management board or the supervisory board of a commercial organisation, loss of the Kazakh citizenship, or the liquidation of the political party from the list of which he was chosen. The termination of a mandate is recognized by the Central Election Commission of the Republic of Kazakhstan (art. 52 par. 5–6 of the Constitution of the Republic of Kazakhstan and art. 24 par. 3 of the Constitutional Law № 2529)⁷⁵.

While exercising their mandate, deputies of the Parliament undertake action on behalf of the whole nation, not only of their own voters (electors). Thus, their mandate is not of an imperative character, but it is a classically free mandate.

On the basis of art. 31 of the Constitutional Law № 2529, Members of Parliament are provided with guarantees as far as the free and independent exer-

⁷⁴ <http://www.parlam.kz/ru/status> (25.11.2013).

⁷⁵ Ibidem.

cise of their mandate is concerned. The legislator stipulates that any pressure exerted on a deputy or members of his family attracts the responsibility established by the law of the Republic of Kazakhstan⁷⁶.

In accordance with art. 106 of The Regulations of the Parliament of the Republic of Kazakhstan, while participating in the work of the Chambers and their bodies, in their speeches deputies should not use unjustified accusations, which could violate the dignity and honour of parliament deputies and other people. They cannot call for illegal action and violence, nor can they disturb normal work of the Chambers of the Parliament, its coordination and working bodies. They should not interrupt other deputies' speeches, vote using someone else's card; or use offensive gestures, threats and insults, etc.⁷⁷

Deputies of the Parliament, as representatives of the people, use a broad catalogue of rights, which allow them to fully exercise their mandate, such as: 1) as regards powers in the area of personnel issues: the right to choose and be selected for the coordination and working bodies of the Parliament and its Chambers; the right to express opinions on candidates for important official posts, who are selected or appointed by the Chambers of the Parliament; the right to approve the nomination of candidates for posts and offices; 2) as regards powers in the area of the legislative procedure; the right to: launch a legislative initiative; submit amendments to drafts of laws, resolutions, and other acts passed by the Parliament; vote; present their point of view with reference to considered issues; 3) as regards the exercise of the controlling function, the right to: submit deputy interpellations and oral questions, in particular with reference to the control over the execution of the budget by the Prime Minister and members of the Government, the Chairperson of National Bank, the Chairperson and members of the Central Election Commission, the Procurator General, the Chairperson of the National Security Committee of the Republic of Kazakhstan, the Chairperson and members of the Accounts Committee. This right is linked with the officials' obligation to provide an oral or written reply at the parliamentary session within a month; exercise other powers by asking oral questions at the parliamentary sittings, according to the present Constitutional Law, procedural or-

⁷⁶ Ibidem.

⁷⁷ Е.Б. Абдрасулов, Ж.К. Асанов, В.А. Доскалов, Н.Н. Турецкий, *Парламентское...*, pp. 75–76, http://www.parlam.kz/ru/regulation#_Тoc334540782 (20.11.2013).

ders of Parliament and its Chambers; visit state authorities, state bodies, public associations, state organisation in matters concerning their parliamentary activity; make deputies of the Parliament acquainted with the citizens' appeals of high social significance; 4) as regards organisational matters, the right to: submit proposals and comments concerning the agenda of a sitting, the mode of consideration and the essence of matters under discussion; submit motions to the Bureau of the Chamber in the matters proposed to be considered at joint and separate sessions of the Chamber of the Parliament, and, in the case of the rejection of these motions, the right to submit them for consideration at the plenary sessions of the Chambers; to put forward proposals for consideration at the sittings of the Chambers and their internal bodies; participate in discussions, ask questions to speakers, and to the chair of the sitting as well; to justify their motions in the matters to be voted, to provide information; to acquaint themselves with the texts of deputies' speeches recorded in the official reports and in the minutes of the sitting of the Parliament (art. 26–28 of the Constitutional Law № 2529 and art. 95–96 and art. 98–105 of The Regulations of the Parliament of the Republic of Kazakhstan)⁷⁸.

Deputies may also, if they are not members of the Bureau of Chambers, their respective permanent committees, commissions of the Parliament and its Chambers, participate in the sittings of these bodies, obtain information, and take part in discussions and decisions in an advisory capacity (art. 26 par. 7 of the Constitutional Law № 2529)⁷⁹.

When exercising their parliamentary mandate, deputies have to take part in the work of the Chamber. When unable to participate in the sitting, a deputy is obliged to inform the Chairperson of the Chamber or the chairperson of the respective body of the Chamber. The absence of a deputy at sittings of the Chambers and their bodies without a good reason for more than three times as well as transferring the right to vote makes him subject to pe-

⁷⁸ <http://www.parlam.kz/ru/status> (25.11.2013). See also: art. 95, chapter 22 of The Regulations of the Parliament of the Republic of Kazakhstan entitled The procedure of realization of powers of deputies of Parliament, http://www.parlam.kz/ru/regulation#_Toc334540782 (20.11.2013).

⁷⁹ <http://www.parlam.kz/ru/status> (25.11.2013).

nalties established by the present Constitutional Law⁸⁰. Detailed principles of the reduction of remuneration for each day of absence without leave and of transferring the right to vote by a deputy are specified by art. 33 par. 1–2 of the Constitutional Law № 2529⁸¹.

The fundamental law and other legal acts regulating the status of a deputy oblige deputies to: observe the Constitution and state legislation, vote exclusively in person, keep state secrets, base their opinions exclusively on reliable and checked information, not formulate statements which might confuse the public opinion or humiliate the dignity and honour of other people, and to use deputy letter headed paper only for official interpellations, letters and documents, and to sign them in person, etc.⁸²

On the basis of art. 52 par. 3 of the Constitution and art. 24 par. 2 of the Constitutional Law № 2529, deputies are obliged to comply with the principle of *incompatibilitas*; they cannot, under a threat of the termination of their powers by the Central Election Commission, be a deputy of another representative body, hold other paid offices, except teaching, scientific and creative activities, get involved in business activity, join the management board or the supervisory board of a commercial organisation⁸³. The requirement of not combining functions was introduced in order to enable a deputy to focus on his work in the Parliament⁸⁴.

On the basis of the provisions of the Constitution, in order to fully and independently exercise their powers, the highest ranking state officials and deputies use the privilege of immunity, which is in force for the whole period of their term of office. After the termination of the mandate, however, a deputy may be held responsible based on applicable law, regardless of the fact whe-

⁸⁰ Art. 52 par. 2 The Constitution of the Republic of Kazakhstan, <http://www.parlam.kz/ru/constitution> (25.11.2013). See also: art. 93 Regulations of the Parliament of the Republic of Kazakhstan, http://www.parlam.kz/ru/regulation#_Toc334540782 (20.11.2013).

⁸¹ Ibidem. See also: art. 110 and 111, chapter 24 of *The Regulations of the Parliament of the Republic of Kazakhstan* entitled „The responsibility of deputies of Parliament”, <http://www.parlam.kz/ru/regulation> (25.11.2013).

⁸² Е.Б. Абдрасулов, Ж.К. Асанов, В.А. Доскалов, Н.Н. Турецкий, *Парламентское...*, p. 77.

⁸³ Ibidem.

⁸⁴ Ibidem, s. 79. See also: art. 97 *The Regulations of the Parliament of the Republic of Kazakhstan*, http://www.parlam.kz/ru/regulation#_Toc334540782 (20.11.2013).

ther the offence was committed while exercising the parliamentary mandate or after its termination. It should also be emphasized that, while exercising their mandate, deputies are subject to civil and legal as well as administrative liability within the full scope and based on applicable law.

During their mission, deputies „without the consent of a respective Chamber (except for the cases of being apprehended on the scene of a crime or committing grave crimes) may not be arrested, subject to detention, measures of administrative punishment imposed by a court of law, arraigned on a criminal charge” (art. 52 par. 4 of the Constitution and art. 32 par. 1 of the Constitutional Law № 2529). The circumstances and appropriate procedures which make it possible to hold a deputy responsible in a specific matter are regulated in the subsequent sections of this article⁸⁵.

What is of the utmost importance for ensuring the independence of a deputy are guarantees of a material character. The amount of the remuneration of the deputies of the Kazakh parliament is established by the President of the Republic on the basis of art. 44 par. 9 Constitution of the Republic of Kazakhstan. On the basis of art. 30 par. 2–5.1 of the Constitutional Law № 2529, deputies living outside of the capital of the Republic, receive free furnished accommodation from the state for the term of their powers. Moreover, Members of Parliament who perform their tasks in the area of their jurisdiction maintaining relations with their voters have the right to: extraordinary purchase of travel documents; reimbursement of travel expenses and upkeep costs during trips to their constituencies, while carrying out tasks on behalf of the Parliament. Moreover, deputies are provided with transport, sanatorium and convalescence service and other services at the cost of the state. As the Constitutional Law № 2529 stipulates, transport service of the deputies of Parliament within the capital of the Republic of Kazakhstan, their medical and sanatorium service are carried out by order established by the President of the Republic. For three months from the termination of a parliamentary mandate till the moment of his employment or reaching a pension age, a deputy is also entitled to a monthly salary grant⁸⁶.

⁸⁵ Ibidem.

⁸⁶ <http://www.parlam.kz/ru/constitution>; <http://www.parlam.kz/ru/status> (25.11.2013).

Deputies who violate the principles of parliamentary ethics are subject to disciplinary responsibility. As art. 33 par. 3 of the Constitutional Law № 2529 stipulates, in case of the violation of the rules of parliamentary ethics, the Chairperson of the respective Chamber can apply disciplinary measures such as: parliamentary censure; compulsion to bring a public apology; deprivation of a speech during one joint or separate sittings of the Chambers; deprivation of a speech during three joint or separate sittings of the Chambers; elimination from the assembly room for the period of one joint or separate sittings of the Chambers; elimination from the assembly room for the period of three joint or separate sittings of the Chambers; deprivation of one-day wages⁸⁷. Moreover, the preparation of questions concerning the imposition of these measures on deputies is delegated to the Central Election Commission of the Republic of Kazakhstan. The control of the presence of the deputies at the sittings of the Chambers and their bodies, as well as inadmissibility to transfer the right to vote is carried out by members of the Central Election Commission (art. 33 par. 4 of the Constitutional Law № 2529 and art. 106–109 of The Regulations of the Parliament of the Republic of Kazakhstan)⁸⁸.

V.

To conclude, it should be noted that the Parliament of the Republic of Kazakhstan has a marginal position in the system of state authority. It is a classic example of a post-Soviet legislature, i.e. the one which exists in the countries – former republics of the Union of Socialist Soviet Republics – and was not established following the decision of sovereign state authorities, but as the result of the fall of the USSR. It must be indicated here that the parliaments which were founded in Central and Eastern Europe in the 1990s in the countries which belong to the Soviet „external empire”, as David Olson and Philip Norton put it, are referred to as „postcommunist legislatures”. What must be emphasized is the fact that changes occurring in these countries were determined by factors other than those which had

⁸⁷ Art. 33, par. 3 of the Constitutional Law № 2529, <http://www.parlam.kz/ru/status> (25.11.2013).

⁸⁸ <http://www.parlam.kz/ru/status>; <http://www.parlam.kz/ru/regulation> (25.11.2013).

impact on the first group of parliaments, to which the Kazakh representative assembly does not belong. Researchers point out that differences in the development mode of these parliaments first of all result from the need for adopting a different constitutional model, the stability of a political system, the role of political leaders, the nature of international relations that a country maintains, as well as from the perception of democracy and the degree to which democratic principles are observed. All the original differences between the two types of legislatures have become increasingly evident with time⁸⁹.

At present, postcommunist and post-Soviet parliaments are entirely different bodies, which exercise their functions in totally different conditions, both politically and institutionally. The literature distinguishes three basic models of the legislatures of the post-authoritarian era: the pluralist-democratic, the majority-democratic, and the president-dependent ones⁹⁰.

The Parliament of the Republic of Kazakhstan is a classic example of a passive legislature, which is dominated by the president, the presidential political party, and which has a low level of autonomy. To sum up, it must be noted that parliaments are undoubtedly institutions which should be considered as the bodies conducive to the stability of a political system. According to P. Norton and D.M. Olson, such stability can be achieved when there is the balance of legitimisation within the system⁹¹.

Literature

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⁸⁹ D.M. Olson, G. Ilonszki, *Introduction*, [in:] *Post-Communist Parliaments. Change and Stability in the Second Decade*, ed. idem, London 2012, pp. 1–3.

⁹⁰ D.M. Olson, P. Norton, *Post-Communist and Post-Soviet Parliaments: Divergent Paths from Transitions*, [in:] *Post-Communist and Post-Soviet Parliaments. The Initial Decade*, eds. P. Norton, D.M. Olson, London 2008, pp. 178–182.

⁹¹ P. Norton, D.M. Olson, *Post-Communist and Post-Soviet Legislatures: Beyond Transition*, [in:] *Post-Communist and Post-Soviet*, pp. xiv–xv.

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