

# Status of the Judicial Power

- Justice in the RK is exercised only by the court.
  - (The Constitution also provides that criminal procedure may be carried out with participation of jurymen)
- The objectives of judicial power are:
  - to protect the rights, freedoms, and legal interests of the citizens and organizations;
  - to ensure the observance of the Constitution, laws, other regulatory legal acts, and international treaties of RK.
- Judicial power is extended to all cases and disputes arising on the basis:
  - Constitution of RK,
  - Laws of RK,
  - Other regulatory legal acts of RK,
  - International treaties of RK.

# Status of Judicial Power

- **Judgments (decisions & sentences) of courts have an obligatory force on the entire territory of the Republic.**
- **The courts may not apply legal acts infringing human rights.**
  - **If a court finds a such law,**
  - **it must suspend legal proceedings and address the Constitutional Council with a proposal to declare that law unconstitutional.**
- **Financing of courts, provision of judges with housing**
  - **is performed from the republican budget and**
  - **must ensure the possibility of complete and free exercise of justice.**

# Judicial System

- The courts of the Republic are:
  - the Supreme Court of the Republic and
  - local courts of the Republic:
    - **Regional (Oblast) Courts of RK and Equal Courts;**
    - **District Courts of RK and Equal Courts.**
- The establishment of special and extraordinary courts under any name shall not be allowed.

# Formation of Courts

- The Chairperson and judges of the Supreme Court of the RK are:
  - elected by the Senate;
  - at the proposal of the President of the Republic;
  - based on a recommendation of the Highest Judicial Council of the RK.
- The Chairpersons and judges of the oblast and equivalent courts are:
  - appointed by the President;
  - at the recommendation of the Highest Judicial Council of the Republic.
- The Chairperson and judges of district and equivalent courts of the Republic are:
  - appointed by the President;
  - at the proposal of the Minister of Justice;
  - based on a recommendation of the Qualification Collegium of Justice.

# Status of Judges

- Courts consist of permanent judges whose independence is protected by the Constitution and law.
- A judge when executing justice is independent and subordinate only to the Constitution and the law.
- Any interference in the activity of the court in the exercise of justice is inadmissible and accountable by the law.
- A judge may not be:
  - arrested, detained,
  - arraigned on a criminal charge without the consent of the President except for the cases of being apprehended on the scene of a crime or committing grave crimes.
- Note: judges of the Supreme Court may not be arraigned on a criminal charge without the consent of the Senate except for the cases of being apprehended on the scene of a crime or committing grave crimes.

# Constitutional Council

- Constitutional Council is the state organ which ensures the supremacy of the Constitution on the entire territory of RK.
- The Constitutional Council consists of 7 members (the Chairperson and 6 other members) appointed for 6 years. The Chairperson is appointed by the President and in case the votes are equally divided, his vote is decisive. Two members are appointed by the President, two - by the Chairperson of Senate, and two - by the Chairperson of the Mazhilis.
- The ex-Presidents of RK have the right to be life-long members of the Constitutional Council.

# Status of Members of Constitutional Council

- The members of the Constitutional Council may not:
  - be deputies,
  - hold paid offices except teaching, scientific or other creative activities,
  - engage in entrepreneurial activity,
  - enter a governing body or a supervisory board of a commercial organization.
- The members of the Constitutional Council during their term in office may not be:
  - arrested or detained,
  - arraigned on a criminal charge without the consent of Parliament, except in cases of being apprehended on the scene of a crime or committing grave crimes.

# Appeal to Constitutional Council

The Constitutional Council may be appealed by:

- the President,
- the Chairpersons of the Senate and the Mazhilis
- 1/5 of the total number of deputies of Parliament as well as
- the Prime Minister



# Competence of Constitutional Council

## Constitutional Council:

- decides on the correctness of conducting the elections of the President and Parliament, as well as of an all-nation referendum;
  - considers the laws adopted by Parliament with respect to their compliance with the Constitution before they are signed by the President;
  - considers the international treaties of the Republic with respect to their compliance with the constitution, before they are ratified;
  - officially interprets the provisions of the Constitution.
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- Laws and international treaties recognized not to be in compliance with the Constitution may not be signed or ratified and brought into effect.
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- Note: The President of the Republic may object to the resolutions of the Constitutional Council.
    - These objection may be overruled by 2/3 of the votes of the total number of the members of the Constitutional Council.