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Acts of the Constitutional Court as sources of law of the Republic of Kazakhstan

Constitutional Court of the Republic of Kazakhstan has a significant role in overseeing observance of the country's law and regulation in accordance with the Constitution. Its acts have an effect on law enforcement practice, influencing law and its creation. However, the question of exactly how the acts of the Constitutional Court have an effect on the country's legal system and up to what extent they may be regarded as sources of law is still subject to research. The acts of the Constitutional Court play a significant role in strengthening and improving the legal system. The research task is to determine and understand the legal nature and role of acts of the Constitutional Court of the Republic of Kazakhstan as a source of law. The research employed systematic and content analyses of normative legal acts, constitutional and judicial acts, and comparative legal method. The study determined that acts of the Constitutional Court possess strong legal force and have strong influence on processes of lawmaking and enforcement. Their acts are binding for everyone who are subjects of public authority and are legal guidelines for constitutional understanding. The acts proved to be definite sources of law and perform a role in ensuring constitutional order and human rights protection. The study stresses further development for applying these acts and for expanding a role of the Court in Kazakhstan's legal system. The study results are operable during legislative development and during legal practice.

Keywords: Constitutional Court, Kazakhstan, legal system, sources of law, legal force, judicial practice, lawmaking, human rights, legal interpretation, constitutional order.

Introduction

One of the elements of the evolving constitutionalism in sovereign Kazakhstan is the Constitutional Council, which plays a key role in ensuring that all normative legal acts comply with the Constitution. Enhancing its effectiveness is a key priority in building a legal, democratic, and social state. For a long time, there has been ongoing discussion as to whether the decisions of the Constitutional Council and constitutional courts in other countries constitute sources of law. This issue continues to provoke debate in specialized legal literature [1].

In legal theory, the concept of a "source of law" refers to the form in which legal norms are enshrined. The sources of constitutional law are legal documents through which the legal norms of constitutional law are established and acquire binding legal force; these norms regulate social relations that underlie the constitutional order [2; 27].

Documents issued by central executive authorities, such as ministries, state committees, federal services, as well as by heads of local administrations and executive bodies of the Republic's constituent entities, are referred to as subordinate acts. All legally significant acts concerning the rights and obligations of citizens must be published; otherwise, they cannot be applied in practice.

The system of constitutional law souces in the Republic of Kazakhstan reflects the historical and political characteristics of the state's development, as well as the specifics of its legal system. In this context, a special role is played by the Constitution of the Republic of Kazakhstan and constitutional laws, which occupy the top position in the hierarchy of sources of law. They serve as the foundation of the entire legal system and provide the basis for the development and adoption of other normative legal acts.

The Constitution of the Republic of Kazakhstan, adopted by national referendum on August 30, 1995, is based on the fundamental principles of state power and the legal system. It contains the main provisions on the rights and freedoms of individuals and citizens, the structure of state authorities, their powers, and interrelations. Constitutional laws specify and develop the norms of the Constitution, regulating various aspects

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of public life, such as the protection of human rights, the procedure for conducting elections, the judicial system, and others.

The purpose of this study is to analyze the legal nature of subordinate acts in the system of sources of law of the Republic of Kazakhstan, their significance for regulating social relations, as well as to examine the mechanisms of their application and mandatory publication to protect the rights, freedoms, and obligations of citizens.

Research objectives:

1 To study the legal nature of the acts of the Constitutional Court of the Republic of Kazakhstan.

2 To determine their place and significance in the system of sources of law.

3 To develop proposals for improving the legal regulation of the acts of the Constitutional Court in Kazakhstan.

Methods and materials

The main way to conduct research is through an examination of formal legal acts of Kazakhstan, including the Constitution, the law, and normative acts. The main provisions of the Constitution and the Law "On Legal Acts", through which the adoption and publication procedures for lower-level legal acts are defined, were studied through text analysis.

Systematic analysis was conducted in order to comprehend the position of the acts of a lower tier within the system of legal sources in Kazakhstan. The use of this method enabled the identification of how lower tier acts work in relation to the law and the areas and issues involved in their implementation in everyday practice. For information from official publications of lower tier acts and for the legal literature, content analysis was utilized. Through it, the trends in regulating social relations using lower tier acts and how they affect citizens' rights were analyzed.

This study involved the analysis of subordinate acts of the Republic of Kazakhstan in terms of their legal nature and impact on society. The primary materials for analysis included the Constitution of the Republic of Kazakhstan, the Law "On Legal Acts", and various government resolutions, ministerial orders, and other official documents.

The research included the analysis of both legal documents and judicial practice in order to understand how subordinate acts are applied in practice and what problems may arise in their implementation. Specific examples of subordinate acts were examined, including a government resolution on taxation and an order of the Minister of Health on sanitary standards, to analyze their impact on citizens' rights and the functioning of various sectors of society.

In addition, the study included official publications from various government bodies, which provided additional context for analyzing the functioning of subordinate acts in Kazakhstan.

Results

A unique system of sources of constitutional law has been established in the Republic of Kazakhstan, which has led to an increase in the number of normative acts regulating constitutional relations and to the strengthening of the influence of universal values. This process is driven by changes in the content of existing sources of law and the emergence of new ones.

The acts of the Constitutional Court of the Republic of Kazakhstan possess a special status within the country's legal system. According to the Constitution, the decisions of this body are binding on all state bodies, organizations, and citizens (Article 74 of the Constitution of Kazakhstan). This underscores their significance and binding force, which, in turn, allows them to be considered a specific source of law with unique characteristics.

In the field of jurisprudence, active debates are taking place regarding the degree of formal recognition of these normative acts as fundamental sources of law. Certain experts express the opinion that the acts of the Constitutional Court possess a precedent-based nature and may serve as grounds for decisions by courts of general jurisdiction. This assertion is based on the fact that the legal positions expressed in the acts of the Constitutional Court contribute to the formation of a general legal context and promote greater consistency in law enforcement [3].

This raises the question: can the decisions of the Constitutional Court be used as independent grounds for judicial proceedings? In most cases, the acts of the Constitutional Court serve as a starting point for the interpretation and understanding of legal norms, yet they are rarely incorporated directly into legislative acts. This means that the influence of such decisions on the legal system is more generalized and interpretative

rather than normative. Nevertheless, their importance in the context of protecting human and civil rights and freedoms, as well as ensuring of the stability of the constitutional legal order, cannot be denied.

The primary role of the Constitutional Court is to exercise constitutional oversight. This involves verifying the compliance of laws, normative acts, and international treaties with the Constitution. Requests for such review may be submitted by the President of Kazakhstan, the Government, members of Parliament, courts of general jurisdiction, as well as by citizens whose constitutional rights have been violated. In rendering decisions, the Constitutional Court relies not only on the text and spirit of the Constitution but also on Kazakhstan's international obligations, which helps align national laws with international standards.

The actions of the Constitutional Court hold precedent value, as their legal stance is obligatory for all governmental bodies, organizations, and citizens. The decisions of the Court are not subject to appeals and are bound to be enforced. This is in line with the highest authority of the Court and its pivotal position in upholding legality and justice. The Constitutional Court, on the other hand, is not involved in politics, and at the same time, it remains an independent entity that ensures the safeguarding of the principles of the constitution.

As an indicator of the significance of the decisions of the Constitutional Court, note that they tend to become a point of departure for the elaboration of new legislations and the amendment of current ones. Moreover, the actions of the Court serve to reinforce democracy and human rights. Therefore, we may say that the Constitutional Court of Kazakhstan is among the central institutions ensuring the stability and progress of the legal system of the country.

As noted by the well-known Kazakhstani scholar Aitkhozhin K.K., the main feature of the current constitutional process is that legislation is intended to reflect the fundamental goals and characteristics of a transforming Kazakhstani society, in accordance with the provisions of the Basic Law, and to actively contribute to the formation of a democratic and rule-of-law state [4].

According to Article 71 of the Constitution of the Republic of Kazakhstan, the Constitutional Court is the highest body overseeing compliance with the Constitution throughout the country. Its decisions have the highest legal force and are mandatory for execution by all state bodies, organizations, and citizens.

According to Article 74 of the Constitution of the Republic of Kazakhstan, the decisions of the Constitutional Court are final and not subject to appeal or review. This gives them a special legal status, placing them above ordinary court decisions and equating them with normative legal acts of the highest legal force.

The acts of the Constitutional Court not only resolve specific disputes but also include general legal principles and interpretations of constitutional norms. According to Article 4 of the Constitution of the Republic of Kazakhstan, it has the highest legal force, is directly applicable, and is enforced throughout the country.

The main document regulating the legal status of subordinate acts is the Constitution of Kazakhstan and the Law "On Legal Acts" dated April 6, 2016, No. 480-V LRK. According to these documents, subordinate acts include acts of central executive bodies, ministries, state committees, federal services, as well as acts of local administrations and executive bodies of the Republic's constituent entities.

According to Article 4 of the Constitution of Kazakhstan, normative legal acts of various levels are included in the system of law sources of the country. The highest level is occupied by the Constitution and laws of Kazakhstan, which have the greatest legal force. Subordinate acts are on the second level and are adopted for the implementation of specific legal provisions and their practical application [2].

An example of a subordinate act is a Resolution of the Government of the Republic of Kazakhstan, aimed at implementing laws in specific areas.

In order for subordinate acts to be applied, they must be officially published. This requirement is established in the Law of the Republic of Kazakhstan "On Legal Acts". According to Article 43, normative acts affecting the rights, freedoms, and obligations of citizens must be published in the mass media or on official internet resources for public access. Acts that have not undergone the publication procedure cannot be applied and are considered invalid.

According to the Law of the Republic of Kazakhstan "On Legal Acts" dated April 6, 2016, No. 480-V LRK, the acts of the Constitutional Court are normative legal acts of direct effect. This confirms their status as sources of law that must be taken into account in the drafting and application of laws.

According to Article 78 of the Constitution of the Republic of Kazakhstan and the Law "On the Constitutional Court of the Republic of Kazakhstan" dated November 5, 2022, No. 153-VII LRK, the following may apply to the Constitutional Court:

1 The President of the Republic of Kazakhstan.

2 The Chairperson of the Senate of Parliament.
3 The Chairperson of the Mazhilis of Parliament.
4 No less than one-fifth of the total number of deputies of Parliament.
5 The Prime Minister.
6 Courts in matters arising during judicial proceedings.
Figure 1 shows the stages of constitutional proceedings.

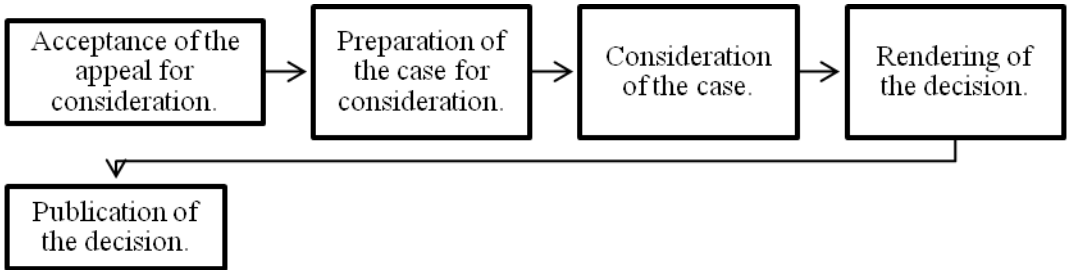

Figure 1. Stages of Constitutional Proceedings

According to Article 74 of the Constitution of Kazakhstan and Article 37 of the Law "On the Constitutional Court", the decisions of the Constitutional Court are binding on all state bodies, organizations, officials, and citizens.

After the Constitutional Court issues a decision, the legislature is obligated to amend normative legal acts to ensure their compliance with the Constitution and the Court's decisions. This process contributes to the improvement of legislation and the elimination of contradictions in normative acts.

Let us consider an example: the Constitutional Council (which performed the functions of the Constitutional Court until 2022) reviewed the constitutionality of certain provisions of the Criminal Procedure Code of the Republic of Kazakhstan that restricted the right to defense. It was recognized that these norms contradicted the Constitution, which led to their removal from legislation and the strengthening of the rights of the accused.

Another example concerns the issuance of a decision. After the re-establishment of the Constitutional Court in 2022, one of its first decisions was to declare certain provisions of a law restricting freedom of speech unconstitutional. This decision contributed to the enhanced protection of the constitutional right to freedom of expression and required the legislature to introduce corresponding amendments to normative acts. The Court's precedent-setting decisions encourage lawmakers to more thoroughly analyze new draft laws for their compliance with the country's Basic Law.

Active participation of the Constitutional Court in the protection of citizens' rights and freedoms strengthens public trust in the legal system and state institutions. The publication and discussion of the Court's decisions contribute to increasing the level of legal culture among the population and to public awareness of the importance of law compliance. The acts of the Constitutional Court have a direct impact on legal practice. Judicial and other state bodies are obligated to follow the legal positions expressed in the decisions of the Constitutional Court. This helps ensure consistency in judicial practice and adherence to constitutional principles in the work of state institutions.

Figure 2 shows the problems and shortcomings in the application of subordinate acts.

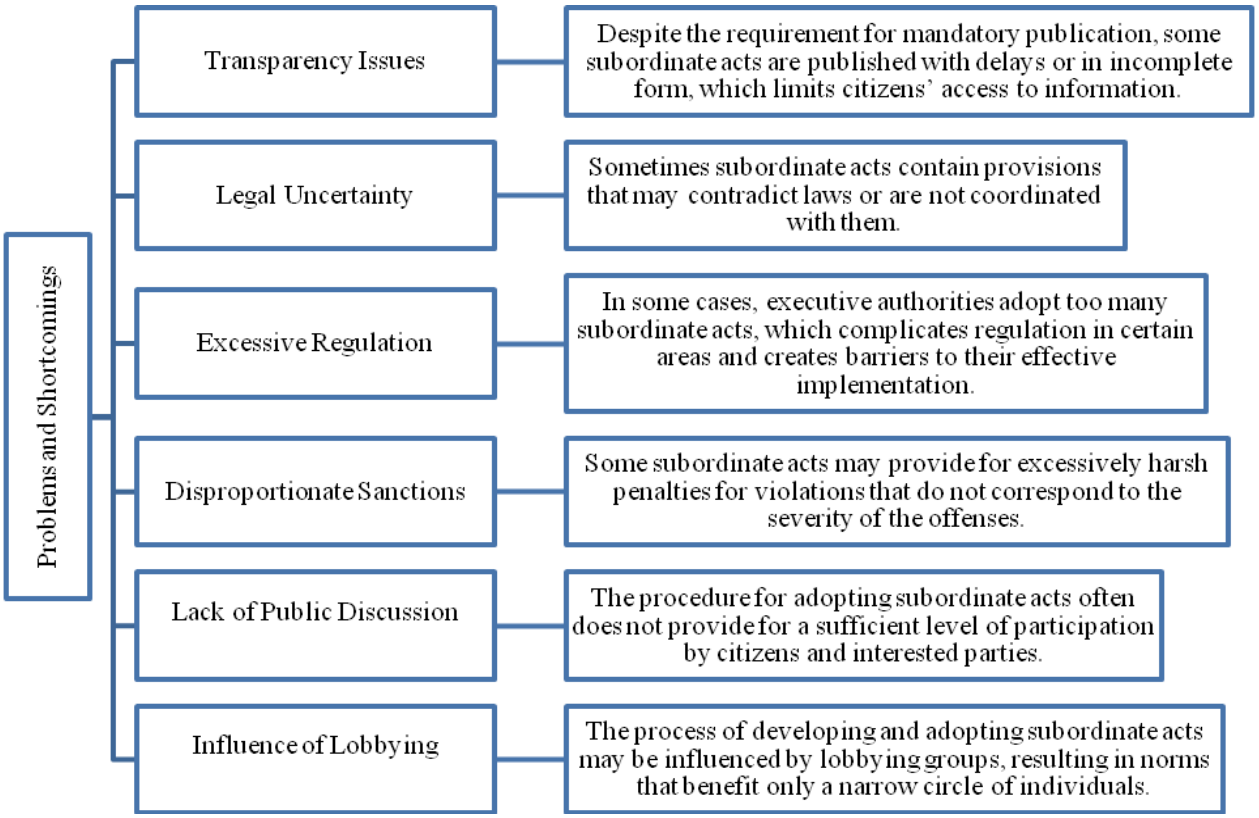

Figure 2. Problems and Shortcomings in the Application of Subordinate Acts

To improve the clarity and effectiveness of the use of subordinate acts, it is necessary to establish a system of control and monitoring over the timeliness and compliance of their publication with established standards. It is also important to improve mechanisms for public participation in decision-making and to limit the influence of lobbying. Fair and proportionate sanctions for violations of the law must be established, avoiding excessive regulation.

Let us analyze how constitutional courts in the United States, the United Kingdom, France, Germany, and Spain exercise oversight functions. We will conduct an analysis of the features and similarities in the approaches to the implementation of the supervisory powers of these courts.

Modern scholars have struggled to define comparative constitutional law and related terms such as comparative constitutionalism. In his book *Comparative Methodologies*, Professor Ran Hirschl of the University of Toronto writes: "From its inception, comparative constitutionalism has struggled with questions of identity. There is much confusion regarding its aims and objectives, as well as what exactly it encompasses—constitutional systems, constitutional jurisprudence, constitutional courts, or constitutional governance and politics. It is also unclear whether comparative constitutional law should be considered part of comparative law, a branch of constitutional law, or a fully autonomous field of study" [5].

However, more recently, Professor Madhav Khosla of Columbia University suggested that comparative constitutional law "has undoubtedly emerged as a distinct field of study", though "much remains to be settled" [6].

The contemporary rise of constitutional law in a comparative context has occurred in legal and judicial practice, as well as in academia. Professor Monica Claes (also from Maastricht University) associates this surge of interest with several factors: the global rise in constitutional activity; the growing importance of constitutions and constitutional law in public life (including constitutional adjudication); the increasing interest in national identity; and the trend toward constitutionalization in European and international governance [7].

According to her colleague, Professor Heringa, the advantages of the practice of comparing constitutions are as follows:

1. This process helps to assess and understand the researcher's own constitutional system;
2. It provides useful material for constitutional design and constitutional engineering;

3. It establishes a foundation for the creation and development of international organizations and their institutions (such as the EU and the Court of Justice of the European Union (CJEU)) [8].

In the course of the study, a book was analyzed that examines the role of the concept of constituent power in the history of the constitution, with a focus on the legal and institutional consequences that theorists, politicians, and judges have derived from it. It shows that constituent power, although historically associated with extra-legality and disruptions of constitutional order, has played important functions in decisions concerning legal reality. Constitutional courts have used it to justify their jurisdiction in invalidating constitutional amendments that alter the fundamental structure of the constitution and, thus, constitute a constitutional exercise. Some governments have invoked it to legitimize the transformation of the constitutional order through procedures not provided for in the constitutional amendment rule but considered sufficiently participatory to be viewed as equivalent to the "people in action", and such attempts have sometimes been sanctioned by courts [8].

The legal system of the United States is structured to protect individual rights and prevent their violation by public officials. The Constitution of the United States is the supreme source of law. It establishes and governs the structure of the legal system. All other laws are evaluated against and must comply with the Constitution. The Constitution establishes two main levels of law: state and federal. At the federal level, the Constitution establishes three sources of law: the executive branch, the legislative branch, and the judicial branch (the legislative branch is governed by Article I; the executive branch is governed by Article II; the judicial branch is governed by Article III) [9].

All states have adopted a state constitution that establishes the structure of state government. Often, a state constitution resembles the Constitution of the United States and, accordingly, establishes the state executive, legislative, and judicial branches. However, the details of state constitutions vary by state. State law also establishes and regulates local law, including the laws of counties, cities, townships, and villages [9].

The U.S. Constitution does not describe a specific method for reviewing laws for compliance with the Constitution, so the country uses a traditional system of control. However, the Constitution itself does not preclude such a possibility. According to Article VI, if federal laws or international treaties conflict with the Constitution or state laws, state courts are obliged to follow the U.S. Constitution, federal laws, and treaties.

The U.S. Supreme Court is authorized to interpret the Constitution, review the constitutionality of laws, and monitor whether government actions comply with it. It also creates judicial precedents that can be relied upon in future rulings. Due to this important role of the Supreme Court, the U.S. judicial system has become a significant element in the development and transformation of the national legal system.

In the United Kingdom, it is often believed that the concept of constitutional review is absent, although this is not entirely true. It does exist but has its own characteristics. Unlike many countries, the United Kingdom does not have a traditional written constitution. Constitutional legal norms in the country are divided into four groups: statutes, judicial precedents, constitutional conventions, and doctrinal sources [10].

In the United Kingdom, the doctrine of parliamentary sovereignty is in effect, which excludes the preliminary review of laws by the courts. Parliament holds the exclusive right to enact laws and regulate their application. However, following reforms in the early 21st century, courts were granted the authority to conduct subsequent constitutional review of laws.

The concept of constituent power, especially due to its significance in French revolutionary thought, focuses on two key aspects that remain relevant despite the ambiguous development of this idea. First, constituent power is traditionally associated with the political foundation of the state; second, many scholars continue to link it to issues of popular sovereignty in the context of unitary democracies.

The French system of judicial constitutional review is composed of two institutions: the Council of State and the Constitutional Council. Their jurisdiction is varied according to the legal force of the acts in question. The constitutionality of ancillary acts and administrative rules published by the executive is examined by the Council of State, whereas the Constitutional Council examines the conformity of the law with the Constitution.

In Germany, the Federal Constitutional Court's central position in constitutional review is guaranteed by the Basic Law and stands out among other institutions of the state including the Bundestag, the Bundesrat, the Federal President, and the Government. Articles 93, 94, 99, and 100 of the Basic Law specify the structure of the court, the nature of the power it holds, and govern fundamental areas of settling constitutional conflicts.

In Spain, the constitutional review system is analogous to those of other European states. The Spanish Constitution gives the power of checking for observance of the Basic Law to the Constitutional Court. There

are 12 judges in the Court, chosen by the King for nine years. The Congress (4 judges), the Senate (4 judges), the Government (2 judges), and the General Council (2 judges) propose the candidates. One third of the Court is replaced every three years. The Prime Minister, the Ombudsman, deputies and senators (at least 50), the regional authorities, the courts, and the citizens, organizations, and prosecutors when their constitutional rights are infringed, may file an appeal to the Constitutional Court.

By analyzing the institutions of constitutional review in the aforementioned countries, two fundamental models can be identified: the American and the European models.

The European system is most notable for a great level of autonomy in the operation and constitution of the system. In the European system, there is a separate institution that has the sole jurisdiction to exercise constitutional review and examine related legal issues. The process enables constitutional issues to be independently addressed regardless of individual cases. Constitutional review bodies utilize a number of judicial processes and render decisions based on all the dimensions of a particular case.

In this design, the Constitutional Court is a special institution that checks the constitutional conformity of all laws irrespective of their legal force. The court also has the power to deem actions of the people and organizations as being against the Constitution. One of its key mandates is to hear grievances by the citizens about encroachment upon their constitutional rights.

Discussion

After studying examples from five foreign countries, it can be concluded that the European model of constitutional review, as seen in Germany and Spain, is more effective. A distinctive feature of this model is the existence of a specialized body—the Constitutional Court—which deals exclusively with constitutional review.

Table 1 demonstrates the place of subordinate acts in the system of legal sources of the Republic of Kazakhstan.

Table 1

The Place of Subordinate Acts in the System of Legal Sources of the Republic of Kazakhstan

Level of the Legal Sources System	Examples of Legal Acts	Legal Force
Constitution of the Republic of Kazakhstan	Constitution	Highest legal force
Laws of the Republic of Kazakhstan	Codes (Civil Code, Criminal Code), special laws	Secondary level in relation to the Constitution
Subordinate Acts	Government resolutions, ministerial orders, local acts	Lower level in relation to laws
Local Normative Acts	Company charters, internal regulations	Lowest level in the hierarchy

Table 2 shows additional regulations and articles.

Table 2

Additional Normative Acts and Articles

No.	Name of the Law	Articles
1	Law of the Republic of Kazakhstan “On the Constitutional Court of the Republic of Kazakhstan” dated November 5, 2022 No. 153-VII LRK	Article 4. Principles of activity of the Constitutional Court.
		Article 22. Powers of the Constitutional Court regarding the consideration of appeals.
		Article 33. Procedure for the enforcement of decisions of the Constitutional Court.
2	Civil Procedure Code of the Republic of Kazakhstan dated October 31, 2015 No. 377-V LRK	Article 78. Court appeal to the Constitutional Court in the course of case consideration.
		Article 295. Binding nature of decisions of the Constitutional Court for courts.
3	Criminal Code of the Republic of Kazakhstan dated July 3, 2014 No. 226-V LRK	Article 3. Principles of legality and justice.
		Article 6. Application of the criminal law in time and space.

During the course of the study, the following recommendations were developed:

1. To ensure the effective operation of subordinate acts, it is necessary to improve mechanisms for monitoring their publication. The development of special procedures and tools that guarantee the timely and complete publication of all subordinate acts on official internet resources will enhance the accessibility of legal information for citizens and increase the level of transparency in legislative activities.

2. Subordinate acts need to have strengthened control over their contents in order to enhance the consistency of their acts with legislations. Legal reviews during the development of subordinate acts prevent the adoption of provisions incompatible with legislation and support legal system unification.

3. Streamlining the number of ancillary acts and reducing legal regulation in some spheres of public administration will remove unnecessary and disproportionate normative acts.

4. Frequent periodical examination of the existing sub-ordinate acts for their relevance and consistency with law is a requisite to avert the build-up of obsolescent provisions and to check their relevance in a dynamic legislative system.

For Kazakhstan, in accordance with a comparative examination of models for judicial constitutional review in a number of other countries, a number of propositions for strengthening the system of constitutional review can be advanced. To effectively protect constitutional rights, an independent Constitutional Court with clearly specified competencies, which would exclusively address issues related to the Constitution, needs to be set up. Thus, professionalism of the judiciary will be improved, delays in the consideration of cases will be minimized, and redundancy in functions with ordinary courts will be eliminated, and the constitutional dispute resolution process will be more effective.

A key step would be to give citizens and institutions the right to bring a direct action to the Constitutional Court in case of infringement of their constitutional rights. Demonstrated by the experience of states like Spain, this would support more effective protection of human rights and enhance the confidence of the populace in the judiciary. Preliminary examination of draft legislation for conformity with the Constitution prior to its adoption would prevent the creation of unconstitutional law and lower the number of legal controversies upon enactment.

Second, enhancing legal literacy through education and improving legal information accessibility would allow individuals to more actively protect their rights. It would make the activity of the Constitutional Court more effective. Lastly, to secure fair operation of the Court, the guarantee of its independence from outside, particularly political, influence is necessary. Open procedures for judge appointments and their activities will guarantee objectivity and reinforce confidence in the Constitutional Court in Kazakhstan.

The implementation of these recommendations would allow Kazakhstan to improve its system of constitutional review by aligning with advanced European models. The establishment of a specialized Constitutional Court, the expansion of citizens' access to justice, the development of preliminary review mechanisms, and the strengthening of judicial independence will create the necessary conditions for reinforcing the rule of law and protecting the constitutional rights of citizens.

As for the suggested steps to enhance the implementation mechanism for decisions of the Constitutional Court, we will examine each:

1. Amending the Law "On the Parliament of the Republic of Kazakhstan and the Status of Its Deputies" to introduce a procedure for parliamentary control over the implementation of decisions of the Constitutional Court will improve the guarantees for observance of the constitutional regime and of Court decisions.

2. Developing an online portal for ease of access to Constitutional Court rulings will enhance transparency and facilitate greater access to the legal positions of the Court for both the common citizen and legal practitioners.

3. Adherence to a regular training program for lawyers and judges on implementation of decisions by the Constitutional Court will enhance professional competency and foster a common knowledge of legal principles.

4. Publishing official commentaries on decisions of the Constitutional Court will facilitate better and more precise understanding of the substance and application of the decisions.

5. Establishment of a mechanism for overseeing the implementation of Court decisions by Parliament and the President will facilitate better enforcement of the acts of the Court.

6. Making the activities of the Constitutional Court more transparent and giving the public greater access to its materials will enhance confidence in the institution of constitutional justice.

7. Encouraging scientific and pragmatic examination of Court verdicts will stimulate discussion of legal principles and the stand of the Court, which will improve the effectiveness of law enforcement in the nation.

Thus, the recognition of the Court's decisions as sources of law and efforts to ensure their effective application are important for strengthening the rule of law and a democratic society in Kazakhstan.

Accordingly, the findings of the present study, which investigates the legal status of the acts of the Constitutional Court of the Republic of Kazakhstan as sources of law, are corroborated by a number of domestic and international scholarly works. These studies emphasize the significance of constitutional oversight and the normative authority of decisions rendered by apex judicial bodies. Notably, the works of R. Hirschl, M. Claes, and M. Khosla reflect a comparable understanding of the role of constitutional courts as key institutions in safeguarding the supremacy of the constitution and shaping the evolution of the legal system. This alignment suggests that the patterns identified in this study are consistent with global trends.

A commonality is evident in the recognition of the binding nature of constitutional court rulings and their capacity to establish authoritative legal positions for all branches of government. However, a distinguishing feature of the Kazakhstani model lies in the insufficient normative regulation of the status of Constitutional Court acts within the formal hierarchy of legal sources. Unlike European countries, such as Germany or Spain, where constitutional court decisions hold an explicitly codified legal status, the Kazakhstani legal framework lacks clear regulation in this regard, resulting in a degree of legal uncertainty.

Certain foreign approaches—most notably the American precedent-based model—underscore the judiciary's role as an autonomous source of law. Nevertheless, this model is only partially applicable in the context of Kazakhstan's predominantly continental legal system. While the relevance of this perspective may be limited, it remains partially valid in the face of an evolving constitutional environment, where judicial lawmaking, including through Constitutional Court rulings, is increasingly influential despite traditional doctrines.

The study's results demonstrate that the acts of the Constitutional Court possess de facto legal force and help establish stable legal positions applicable in both legislative and enforcement contexts. This is supported by documented cases in which decisions of the Constitutional Council and Constitutional Court prompted subsequent amendments to existing legislation, thereby affirming their substantive impact on the normative legal framework.

From a theoretical standpoint, these findings are best interpreted through an institutional lens, which views constitutional courts as fundamental institutions that ensure the balance of power, uphold the legitimacy of legal norms, and protect the constitutional order. This perspective allows for the conceptualization of Constitutional Court acts not only as legal instruments but also as elements of broader political and legal significance.

The reliability of the results is ensured by a multi-tiered analysis encompassing normative legal acts, judicial practice, and comparative legal assessment, grounded in verified academic sources. The methodological rigor and representative examples drawn from the Court's practice reinforce the credibility of the conclusions reached.

In sum, the research findings are valid and align with prevailing scholarly perspectives. They illuminate the distinctive features of Kazakhstan's model of constitutional adjudication and underscore the necessity for further formalization of Constitutional Court acts as authoritative sources of law.

Conclusion

The position of the Constitutional Court in the hierarchy of sources of constitutional law may be examined from two points of view: first, by regarding the nature of this institution, and, second, by considering the process of decision-making and the legal effects of its decisions. In Kazakhstan, the hierarchy of sources of constitutional law is based on the Constitution of 1995, the fundamental legal document of the Republic.

Because of its tasked mandate to establish the constitutionality of legislative acts, the Constitutional Court has a privileged position. The decisions it renders have a special value in the legal field since they are binding, final, immediate, and irrevocable. Such decisions are endowed with a great legal force, at times superior to other acts of a normative character, including constitutional amendments and ordinary laws. Based on Paragraph 3 of Article 4 of the Constitution, international treaties signed by the state have greater legal force compared to the country's laws, and in this process of constitutional review of international treaties, the Constitutional Court plays a central role. The rulings by the Constitutional Court have greater legal status than the country's ordinary and constitutional laws in cases where an international treaty is declared to be unconstitutional.

Internationally accepted instruments, including the Universal Declaration of Human Rights and other human rights treaties, also have a privileged legal status and precedence over national law, including the

Constitution itself. The legal status of the Constitutional Court is conferred by the Law "On the Constitutional Court of the Republic of Kazakhstan", which gives it the mandate to scrutinize laws adopted by Parliament for conformity with the Constitution before they are signed by the President. It is this system that gives the Court the mandate to block the application of conflicting law, once more re-emphasizing its supremacy within the legal hierarchy.

The rulings of the Constitutional Court are of great significance in the regulation of social relations, particularly if they are related to issues of constitutionality. These decisions become sources of constitutional law, yet rank below the Constitution and those amendatory laws. These rulings are, however, of greater force than regular laws and carry profound legal implications for the legal framework of Kazakhstan.

The types of sources of national law in Kazakhstan are established by the Constitution and the 2016 Law "On Legal Acts". Interestingly, the normative rulings of the Constitutional Court are not explicitly included in the hierarchy of legal acts, although they have a significant impact on the application and interpretation of the law. The Court's decisions are primarily protective in nature and aimed at annulling unconstitutional provisions rather than creating new normative regulations. The Court's role in declaring unconstitutional norms invalid and preventing the enforcement of laws or international treaties that contradict the Constitution highlights its essential function in maintaining the integrity of the legal system.

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Конституциялық соттың актілері Қазақстан Республикасының құқық көздері ретінде

Қазақстан Республикасының Конституциялық соты Конституцияға сәйкес елдің заңдары мен нормативтік актілерінің сақталуын бақылауда маңызды рөл атқарады. Конституциялық соттың

шешімдері заңнамаға және оның дамуына әсер ете отырып, құқық қолдану практикасына әсер етеді. Алайда, Конституциялық сот актілерінің құқықтық жүйеге қандай салдары бар және оларды құқық көзі ретінде қарастыруға болатындығы туралы мәселе одан әрі зерттеуді қажет етеді. Конституциялық соттың актілері құқықтық жүйені нығайту мен жетілдіру процесінде маңызды рөл атқарады. Зерттеудің мақсаты — Қазақстан Республикасы Конституциялық сотының актілерінің құқықтық табиғаты мен олардың құқық көздері ретіндегі рөлін анықтау. Зерттеу барысында жүйелі және мазмұндық талдау әдістері, сондай-ақ салыстырмалы-құқықтық әдіс қолданылды. Зерттеу нәтижесінде Конституциялық сот актілерінің жоғары заңды күшке ие екендігі және олар заң шығару мен құқық қолдану үдерістеріне елеулі ықпал ететіні анықталды. Бұл актілер мемлекеттік билік субъектілері үшін міндетті сипатқа ие және конституциялық нормаларды түсіндіруде бағдар болып табылады. Конституциялық соттың актілері нақты құқық көздері ретінде танылып, конституциялық тәртіпті сақтау мен адам құқықтарын қорғауда маңызды рөл атқаратыны көрсетілді. Сонымен қатар, осы актілерді тиімді қолдану тетіктерін жетілдіру және Конституциялық соттың елдің құқықтық жүйесіндегі рөлін күшейту қажеттігі атап өтілді. Зерттеу нәтижелері заңнаманы жетілдіру және құқықтық тәжірибеде қолдану үшін практикалық маңызға ие.

Кілт сөздер: Конституциялық сот, Қазақстан, құқықтық жүйе, құқық көздері, заң күші, сот практикасы, заң шығару, адам құқықтары, құқықты түсіндіру, конституциялық тәртіп.

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Акты конституционного суда как источники права Республики Казахстан

Конституционный суд Республики Казахстан играет важную роль в контроле за соблюдением законов и нормативных актов страны в соответствии с Конституцией. Решения Конституционного суда оказывают влияние на правоприменительную практику, воздействуя на законодательство и его развитие. Однако вопрос о том, какие именно последствия имеют акты Конституционного суда для правовой системы и в какой мере они могут рассматриваться как источники права, требует дальнейшего изучения. Акты Конституционного суда играют важную роль в процессе укрепления и совершенствования правовой системы. Целью данного исследования является определение правовой природы и роли актов Конституционного суда Республики Казахстан как источников права. В работе использованы методы системного и контент-анализа нормативных правовых актов, актов конституционной и судебной практики, а также сравнительно-правовой метод. В результате исследования установлено, что акты Конституционного суда обладают высокой юридической силой и существенно влияют как на правотворческий процесс, так и на правоприменение. Эти акты являются обязательными для исполнения всеми субъектами публичной власти и служат ориентиром в толковании конституционных норм. Установлено, что акты Конституционного суда представляют собой самостоятельные источники права и играют значительную роль в обеспечении конституционного порядка и защите прав человека. Отмечена необходимость дальнейшего совершенствования механизмов реализации данных актов и укрепления институциональной роли Конституционного суда в правовой системе Казахстана. Результаты исследования имеют практическую значимость при разработке законодательства и в юридической практике.

Ключевые слова: Конституционный суд, Казахстан, правовая система, источники права, юридическая сила, судебная практика, законотворчество, права человека, толкование права, конституционный порядок.

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