

## **SECTION 2. CONSTITUTIONAL AND MUNICIPAL LAW**

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### **THE CONSTITUTIONAL RIGHT TO A PERSONAL RECEPTION AND ITS IMPLEMENTATION IN THE REPUBLIC OF KAZAKHSTAN**

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At the beginning of 2026, an active constitutional reform commenced in the Republic of Kazakhstan which, according to experts, will lead to a substantial revision of a large number of provisions of the Basic Law, including those concerning human and civil rights and freedoms. The main vector of these changes is the strengthening of the constitutional status of the individual and the citizen, as well as the improvement of the functioning of public authority institutions.

These directions may be considered both as independent and as closely interconnected. In the latter case, this concerns those rights and freedoms whose exercise by private individuals may influence the functioning of state bodies as well as local self-government bodies.

In this context, we are referring to the constitutional right to a personal reception. Let us examine this issue in more detail.

According to paragraph 1 of Article 33 of the Constitution of the Republic of Kazakhstan (in its current wording), citizens of the Republic of Kazakhstan have the right to participate in the administration of state affairs directly and through their representatives, to apply in person (emphasis added – T.Ch.), as well as to submit individual and collective appeals to state bodies and local self-government bodies.

As we can see, the right to a personal reception is «embedded» as a constituent element within a higher-order constitutional right – the right to participate in the administration of state affairs. This, in turn, means that through personal reception private individuals may exert a certain influence on the functioning of public authority institutions, including by giving effect to another constitutional formula, according to which

«the people shall be the sole source of state power» (paragraph 1 of Article 3 of the Constitution of Kazakhstan).

However, upon closer examination of the current wording of Article 33 of the Constitution of the Republic of Kazakhstan cited above, one cannot fail to note that the right to a personal reception is granted only to citizens. In the context of the ongoing constitutional reform, this provision, in my view, deserves reconsideration. Is it truly justified and necessary that only citizens may gain access to a personal reception with the heads of state bodies and local self-government bodies?

At present, a significant number of foreign nationals reside in the territory of Kazakhstan. This is due, *inter alia*, to the fact that Kazakhstan pursues a targeted state policy aimed at attracting both foreign capital and specialists in certain sectors of the economy. It is evident that foreign nationals, while residing in Kazakhstan, enter into various legal relations on a wide range of issues. In this regard, they may have a need to interact with the heads of the relevant public authorities. Taking the above into account, it appears justified to propose amendments to paragraph 1 of Article 33 of the Constitution of Kazakhstan that would allow not only citizens, but also other natural persons present in the territory of the Republic, to exercise the right to a personal reception.

An important aspect concerning the right to a personal reception is its subsequent normative regulation.

Since the right to a personal reception is a constitutional right, both its implementation and its limitations must be regulated at the level of law. This requirement follows from paragraph 1 of Article 39 of the Constitution of Kazakhstan, which states: «Human and civil rights and freedoms may be limited only by laws and only to the extent necessary for the protection of the constitutional order, public order, human rights and freedoms, and the health and morality of the population».

An analysis of the current legislation of Kazakhstan shows that the procedure for the exercise of the right to a personal reception (in its most detailed form) is set out in Article 90 of the Administrative Procedural and Process Code, which, in particular, provides in paragraph 1: «Heads of state bodies, local self-government bodies and their deputies, with the exception of the state body ensuring the activities of the Government of the Republic of Kazakhstan, shall be obliged to conduct personal receptions of natural persons and representatives of legal entities on matters falling within the competence of the respective body or official».

As we can see, the cited provision effectively expands the circle of right-holders, since it uses the term «natural persons» rather than «citizens». In our view, this may serve as an additional argument indicating the need to introduce corresponding amendments to the Basic Law as well.

Moreover, neither the cited provision of the Code nor the other three parts of this article contain conditions (grounds) that would allow the head of a state body to refuse a private individual the exercise of the right to a personal reception. This means that this constitutional right may be limited only under the conditions set out in paragraph 1 of Article 39 of the Constitution of Kazakhstan: protection of the constitutional order, public order, human rights and freedoms, and the health and morality of the population.

Consequently, the above implies that state bodies may not adopt subordinate normative legal acts providing for conditions to restrict the right to a personal reception. In our view, despite the clarity of this conclusion, it would be advisable to explicitly закрепить (enshrine) it at the level of Article 90 of the Administrative Procedural and Process Code.

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