

Annex 1:

OSCE/ODIHR

Dear Janez Lenarcic!

In the context of administrative law reform and introduction of administrative justice, State Institute ‘The Legislation Research Institute of the Republic of Kazakhstan’ (hereinafter *Institute*) has developed a Concept Paper and a draft Law of the Republic of Kazakhstan On Administrative Procedures in a new edition.

In this connection, the Institute is sending you the Concept and the Draft Law for information and your expert opinion.

Enclosure: 50 pages.

Zh. Busurmanov, D.Sc. (Law), professor
Director

Concept of the Draft Law of the Republic of Kazakhstan On Administrative Procedures (new edition)

1. Title of the draft law

Law ‘On Administrative Procedures’ (new edition)

2. Rationale for Drafting the Law

The law was necessitated by the following two inter-related factors:

1. The need for furthering the administrative reform and decreasing administrative burden on the business sector;
2. The need for introducing an administrative justice system.

In view of these factors, it is necessary to review of the current programmatic documents (presidential messages to the people of Kazakhstan, the Legal Policy Concept, etc) and legislation in this field of regulation, identify causes of existing yet rather ineffective mechanisms, and detect gaps, collisions, etc.

1. The Presidential message to the people of Kazakhstan called ‘Kazakhstan 2030: Prosperity, Security and Improved Well-Being of all Kazakh citizens’ identified the pattern of ‘a professional state limited to fulfilling its major functions’ as one of the country’s long-term priorities. Effective state power is necessary to address pressing socio-economic issues, to increase the living standard and to improve the quality of human life. In this context, the administrative reform in the Republic of Kazakhstan is far from being finished.

Item 2.2 of the Legal Policy Concept Paper of the Republic of Kazakhstan for the period from 2010 to 2020 (Decree of the President of the Republic of Kazakhstan dated 24 August 2009) states that ‘The development of the state governance system in Kazakhstan is inseparable from creating a legal framework for the administrative reform aiming to establish an effective and compact state machine, use new governance technologies, and **improve administrative procedures**’. The concept paper also identifies main directions of the legal framework in support of the administrative reform:
- further development of the administrative law requires maximum possible deviation from the established traditional approaches in relations between the state, citizens and nongovernmental organizations, based on unilaterally authoritative principles. The ‘power and subordination’ principles cannot be totally abandoned, yet the scope of **partnership-promoting, functional and client-based, purely protective** principles should be expanded. In this connection, it is necessary to continue efforts for **simplifying the registration, permission, and licensing procedures**, for providing safeguards to prevent illegal interference of governmental agencies into the activities of commercial

and nonprofit organizations. Thus, a new institute of administrative law is actually being established to regulate relations in the field of public services provided to citizens and organizations. A respective legal framework is required to ensure functioning of this institute¹.

It should be noted that the administrative reform has been steadily conducted in the country since Kazakhstan re-gained its independence. Recent initiatives in this area include legal acts introducing the position of responsible secretaries in ministries and other central executive bodies; introducing result-oriented strategic planning into the work of governmental agencies; breaking up the public administration functions into strategic, regulatory, implementing, and supervisory ones. Yet these legal acts are intended to enhance effectiveness of activities and interaction procedures within the state machine.

Improvement of internal relations within governmental agencies certainly enhances external activities of the power-holding agencies. In the same time, internal procedures of executive bodies only lay a foundation for law-enforcement activities outside the agency. The adopted normative acts did not include a law that would support practical transition from ‘system-oriented’ to ‘person-oriented’ type of relations between the man and the state². Yet the Constitution of the Republic of Kazakhstan stipulates the person-oriented approach: ‘The Republic of Kazakhstan positions itself ... as a legal and social state whose utmost values are the individual, his/her life, rights and freedoms’ (Article 1, para. 1), ‘Human rights and freedoms ... determine the content and application of laws and other statutory acts’. (Article 12, para. 2).

Yet the constitutional norms have not seriously influenced the relations between individuals/private legal entities and the governmental agencies.³ A large number of issues are still regulated by outdated laws, with their ideology and legal foundation shaped back in the Soviet time. Governmental agencies have always based their private interest decisions on numerous branch laws and bylaws, frequently contradictory and failing to adequately safeguard and protect human rights and freedoms of the citizens. In other words, the statutory acts provide no legal mechanisms to support all the constitutional provisions for changing the paradigm of relations between individuals/private companies and governmental agencies (officials). The fact is confirmed by high levels of corruption and bureaucracy in governmental agencies and administrative barriers for business.

The administrative barriers should be understood as unjustified or inefficient administrative rules and norms reflected in law and/or enforced in practice.

In these terms, this draft law articulates principles and rules for ensuring a balance of interests of the individual, the society, and the state; proportional restrictions of

¹ Namely, the activity of Population Service Centers providing public services based on the one-stop-shop principle is regulated by bylaws.

² In the person-oriented type of relations an individual or a person is the highest value. Activities of the state are viewed in the light of a personality and human freedom. In a system-oriented type of relations, an individual is perceived as a means for achieving some supra-individual, ‘national’ goals.

³ Even though norms of the Constitutions apply directly.

individual's rights and freedoms versus constitutionally recognized purposes of the restrictions. Thus, the *'Concept for Improving the Licensing System in the Republic of Kazakhstan'* states that 'difficult and nontransparent procedures that entrepreneurs have to follow for establishing and maintaining a business are a serious barrier to economic growth. These procedures increase costs of production and entrepreneur's expenses, limit their access to the market, hold back the development of business, worsen the business environment and promote corruption'⁴.

Simple and understandable administrative procedures that require minimum time and money of private entrepreneurs to comply with would be the basis for introducing, for instance, the World Bank's Ease of Doing Business Index that assess legislation and compliance in 181 countries of the world (Kazakhstan is 63rd, and according to the Dealing with construction permits index – 143rd).⁵

In western public law doctrine and laws, the Law On Administrative Procedure or Administrative Proceedings is viewed as a fundamental legal act of the administrative law⁶.

When considering the administrative procedure legislation of the Republic of Kazakhstan as a system of social norms intended to regulate human behavior, we can represent it as a two-tier structure of norms and laws. The first tier is the Law of the Republic of Kazakhstan 'On Administrative Procedures' of 27 November 2000 (hereinafter LoAP RK) that has a general character. The second tier is disciplinary (branch) legal acts and by-laws (regulations, standards) that contain special rules regulating competencies of executive bodies as well as subjective rights and obligations of citizens in different areas of life. Yet analysis of the Kazakh administrative laws and norms permitted identification of the major problem that is lack of consolidation in this field of law (notwithstanding the LoAP RK).

Despite its overall importance, the LoAP RK fails to be a 'backbone' of the administrative procedure legislation, as direct application of the LoAP provisions is limited by declarative and blanket-type norms permitting governmental agencies to adopt legal acts inconsistent with fundamental administrative principles or respective administrative procedures. That undermines the two-tier pyramid of the administrative procedure legislation crowded by the LoAP RK.⁷ The correlation between the LoAP RK and other statutory acts regulating procedures for implementation of respective public administration functions is apparent from Article 2 'Scope of this Law' and Article 24 'Correlation between this Law and other Statutory Acts' of the LoAP. Analysis of these articles suggest at least the following: administrative procedures stipulated by this Law apply to the administrative activities and provision of public services by governmental

⁴ *Concept for Improving the Licensing System in the Republic of Kazakhstan for 2009-2011*, approved by a resolution of the Government of the Republic of Kazakhstan of 27 November 2008// Ref. legal system *Zakon* ('Law'), as of 1.08.2010.

⁵ See: <http://www.damu.kz/3201> – as of 9.02.2010.

⁶ See more details in para. 9 of the Concept Paper *'Western Experience on the Considered Issue'*.

⁷ The LoP KR is still a baby whose birth was registered in 2000, yet has not been legalized as a backbone act of the administrative law up to present.

agencies in all branches of the state power and by all public service providers, **in the area that is not regulated by legal acts**. Thus the LoAP RK may only apply where there is a gap in another legislation regulating activities of different persons of the public law.

The LoAP RK sets out a lot of norms that duplicate provisions of other legislative acts. For example, para. 2-3, 2-5, Article 1 of the loAP copy subpara. 1-3), 1-5) of para. 3, article 3 of the RK Law On Statutory Acts'; articles 17 and 19 of the LoAP replicate articles 12 and 13 of the RK Law On the Procedure for Handling Applications from Individuals and Legal Entities', etc.

The administrative procedure legislation as it is now cannot be seen as consolidated, stable and up-to-date, as a lot of law and bylaws in this area were adopted at different times and are weakly linked to each other.

Thus, we believe the administrative procedure legislation should be improved by consolidation⁸, namely by passing a new law that would set out principles of administrative procedures and proceedings; stages of administrative procedures; requirements to, and rules for appealing against, administrative acts; also a ban for adoption and enforcement of statutory acts deteriorating the position of individuals and/or legal entities compared to the LoAP RK, in relations regulated by the Law On Administrative Procedures, except for those directly referred to in the law.

Consolidation of the common administrative law is especially important, as its norms are now scattered between different statutory acts in the field of construction, education, environment, social security, etc.. In this context, it is especially necessary to have a law regulating general procedural principles and rules for all governmental agencies.

The need to draft a fundamental statutory act in the area of administrative procedure has been repeatedly identified at different conferences and roundtables. Namely, the recommendations of the International Scientific and Practical Conference on *Administrative Court Proceedings: Problems and Development Perspectives* held in Astana on 9-10 June 2005 read: '... to propose to the Government of the Republic of Kazakhstan establishing a work group to draft Common Administrative Code that would regulate activities of governmental agencies to approve, publish and enforce administrative acts; handle complaints about action/inaction of administrative agencies and their officials; ensure of legal preconditions for protecting citizens rights in order to prevent arbitrariness and unlawfulness on behalf of governmental agencies'⁹. Recommendations of the International Scientific and Practical Conference on *Issues of Establishing Administrative Justice in the Republic of Kazakhstan* held in Astana on 12-13 April 2010 under the aegis of the Senate of the RK Parliament read as follows: 'The Government of the Republic of Kazakhstan ... should consider the issue of improving

⁸ Effectiveness of consolidation as a form of systematization is noted in the Legal Policy Concept Paper of the Republic of Kazakhstan for 2010-2020.

⁹ See: *Administrative Court Proceedings: Problems and Development Perspectives*, materials of the International scientific and practical conference, Astana, 9-10 June 2005, p. 6

the Law of the Republic of Kazakhstan ‘On Administrative Procedures’ by including into it provisions regulating pre-trial appeal against decisions of administrative agencies, or **adoption of a new separate Code of Administrative Procedure** establishing basic principles of administrative activities; regulating relations between administrative agencies and individual and legal entities, related to adoption of and appeal against, administrative acts, also actions and inactions of administrative agencies, enforcement of administrative acts, administrative costs, also compensation for damage inflicted by administrative activities. This legal act should be a fundamental document guiding activities of all administrative agencies of the Republic of Kazakhstan.¹⁰ An expert from Ukraine R.A. Kubyda notes: ‘Transformation of the Law on Administrative Procedures into the Code of Administrative Procedure is a pressing issue. First of all, it would clearly regulate administrative procedures initiated upon application of individuals, including administrative services at population service centers, also ‘interventions’ (*ex officio* procedures), i.e. those initiated by a public administration body. It is necessary to reduce the area left to discretion of government officials and prevent possible arbitrary decisions. A part of the code could be dedicated to procedures for signing administrative contracts.’¹¹

2. The other factor conditioning the need of this draft law is introduction of the administrative justice system.

Thus, the Legal Policy Concept Paper for 2010-2020 states that ‘... in the context of developing the law on administrative procedure, the issue of administrative justice should be discussed that would settle legal disputes arising from relations between the state and a citizen (organization) that belong to the field of public law. Thus, consideration should be given to the issue of procedural isolation and legitimization of the procedure for settling disputes belonging to the area of public law. The administrative procedure should therefore become a full-fledged form of justice together with criminal and civil procedures’.

Consideration should be given to the fact that judicial administration on public law cases, i.e. the administrative justice, is the secondary, optional stage of the administrative process, whereas the positive, non-jurisdictional procedure should be the first choice. In this regard, administrative justice procedures should be preceded by reform of the so-called common administrative law regulating positive procedures in relations between governmental agencies and private persons, especially terms of enforcement or voidance of administrative acts, consequences of procedural violations when adopting administrative acts. If operational procedures of governmental agencies are unregulated and laws fail to set administrative procedures consistent with adequate legal procedure and discretion, decisions made by governmental agencies to adopt or void acts would be formally lawful. In case of appeal, courts would have to recognize the decisions as legal

¹⁰ See: *Issues of Establishing Administrative Justice in the Republic of Kazakhstan*: Collection of materials of the International scientific and practical conference, Astana, 2010. pp. 183-184.

¹¹ *Perspectives of Reforming Administrative Law and Administrative Justice in the Republic of Kazakhstan*, an analytical paper, Almaty, 2009.

and reasonable, which would make courts ineffective in settlement of administrative disputes¹².

In other words, the problem of legal limits of public disputes considered by courts is caused by executive bodies that work upon the principle ‘what is allowable shall be allowed’. This work of administration may be of two types: enforcement of laws or acting at discretion, each differently regulated by law. The former case is evident as governmental agencies fully depend on instructions given by the legislator, so decisions and actions of a governmental agency that are inconsistent with the law would be recognized illegal if appealed against in Kazakh courts. Cases when a governmental agency acts at its own discretion are not so unequivocally regulated. The right of an administrative agency to make decisions or act at its own discretion follows from fact that diverse activities of executive bodies make it ineffective and impossible to fully and comprehensively regulate these activities.¹³ Thus, there are two different legal situations: the law either sets the limits for activities of governmental agencies and identifies the possibility of alternative decisions and actions, or says nothing about some areas of administration. The law does not oblige the administration to act in a specific manner, so a private person may not demand a specific action from an administrative agency as there is a factual legal interest but no clear limits for its performance.

Administrative discretion in the national law is frequently reflected using the words ‘may’, ‘possibly’, ‘has the right to’, etc. Thus, according to the Law of the Republic of Kazakhstan ‘On Bodies of the Interior’¹⁴, officials from bodies of the interior have the right to limit or temporary restrict access of citizens to some areas and territories in order to ensure public order and security. Pursuant to article 4 of the Law of Kazakhstan ‘On Organization and Conduct of Peaceful Assemblies, Meetings, Marches, Pickets, and Demonstrations in the Republic of Kazakhstan’¹⁵, ‘for the purpose of ensuring rights and freedoms of other persons and public security’ a local executive body ‘shall propose to applicants another time and venue for conducting the arrangement, if necessary’. In the former example an official may choose to act or not to act, whereas in the latter example he/she is entitled to change the time and venue of arrangements.

If appealed against in Kazakh courts, can the decisions, action/inaction of a governmental agency be invalidated? In our opinion, yes, they should, as even if the law guarantees freedom of action to public officials, they should be constrained in action by rules of administrative procedures and discretion.

In this context, this draft law details principles of fulfilling administrative

¹² Gobbason A.B. Due administrative procedure as a basis for developing administrative justice in the Republic of Kazakhstan // Zatzger. 2010. № 3. pp. 40-41.

¹³ Nikolaeva L.A., Solovieva A.K. Administrative justice and administrative proceedings: foreign experience and Russian tradition: Collection: Published by R.Aslanov ‘Legal Center Press’, 2004. p. 24.

¹⁴ Law of Kazakhstan ‘On Bodies of the Interior’, 21 December 1995 // Reference legal system *Zakon* (‘Law’) as of 1.08.2010.

¹⁵ Law of Kazakhstan ‘On Organization and Conduct of Peaceful Assemblies, Meetings, Marches, Pickets, and Demonstrations in the Republic of Kazakhstan’, 17 March 1995 // Reference legal system *Zakon* (‘Law’) as of 1.08.2010.

procedures and discretion, which would in its turn ensure judicial protection of the rights of citizens and organizations both from unlawful decisions and actions as well as from decisions or (in)actions that fit into the legal boundaries yet interfere with the rights, freedoms or interests of individuals.

Together with legal regulation of the principles of administrative procedure and discretion, another important component of the modern legal state is hearing of all parties prior to making an administrative decision. Procedural rules allowing individuals to present their position and arguments before an administrative act is issued would legally secure that actions or inactions of a governmental agency shall be based on 'involvement' of respondents in decision-making.

In order to stipulate this right of private persons in their relations with executive bodies, the draft law requires notification about future decision of administrative agencies and enabling a private person to express, verbally or in writing, his/her opinion about the decision, primarily when an unfavorable decision is to be made.

Failure to notify the person whose interests are involved, also unlawful refusal to hear a case shall be a significant violation of adequate administrative procedures and shall warrant revocation of the administrative act issued on the case.

Thus, administrative procedures, including discretion, are parameters of lawful behavior that reduce uncertainty of actions of parties in legal relations. In the same time, it is impossible to achieve absolute certainty as specific cases are all different. Compliance with criteria of administrative discretion and stages of adequate administrative procedure is ensured by principles, thus resulting in fair hearing and decisions meeting interest of private persons.

In this context, the experience of administrative law reforms in the post-Soviet countries shows that creation of the administrative justice starts with systematization of first the common administrative law, administrative procedures, and only then the judicial procedures for settlement of public disputes. For example, the Law of the Republic of Armenia 'On Principles of Administrative Activity and Administrative Procedure' was adopted in 2004, and the Armenian Code of Administrative Procedure was approved in 2007.

3. Purpose of the Draft Law

The purpose of the draft law is to develop a single legal act based on the concept of a legal state stipulated by the Constitution of the Republic of Kazakhstan and regulating general principles and procedures for executive bodies to consider and settle administrative cases, issue administrative acts, also procedures of appeal and enforcement, and thus to systematize the legislation regulating these relations.

4. Scope of the Draft Law

The draft law applies to positive public relations between private persons (individuals and nongovernmental legal entities) and governmental agencies, also the

procedures of administrative appeal against administrative acts, etc. Thus, the legal relations reflected in this Concept refer to subpara. 1) and 3), para. 3 Article 61 of the Kazakh Constitution.

5. Outlines of the Draft Law

The draft law consists of 9 chapters and 80 articles.

The outline of the draft law is as follows:

Chapter 1. General Provisions

Chapter 2. Principles of Administrative Procedures

Chapter 3. Main Procedural Provisions

Chapter 4. Stages of Administrative Procedures

Paragraph 1. Initiation of administrative case

Paragraph 2. Review of administrative case

Chapter 5. Administrative act

Chapter 6. Procedure for administrative appeal

Chapter 7. Procedure for enforcement of administrative acts

Chapter 8. Liability of administrative procedure participants

Chapter 9. Final Provisions.

6. Expected Legal and Socio-Economic Consequences of the Draft Law

Adoption of the draft law would have positive legal and socio-economic impacts, namely, it would:

- create an effective (objective and efficient) mechanism for implementation and protection of rights and legal interests of private persons and reduce economic, legal, and psychological costs;
- enhance the image of executive bodies, increase their professionalism and efficiency in handling administrative cases (less bureaucracy and corruption);
- reduce the load on courts by improving the legal framework for pretrial review of administrative disputes.

7. Need for Simultaneous (Subsequent) Harmonization of Other Legal Acts

Adoption of this Draft Law would require simultaneous amendment of the Laws of the Republic of Kazakhstan: ‘On Licensing’ of 11 January 2007, ‘On Public Registration of Real Estate Rights and Real Estate Businesses’ of 26 July 2007, and other statutory acts.

8. Other Legal Acts regulating the scope of the Draft Law

Currently public relations that are the scope of the draft law are regulated by Laws of the Republic of Kazakhstan: ‘On Administrative Procedures’ of 27 November 2000, ‘On the Procedure for Administration of Claims from Individuals and Legal Persons’ of

12 January 2007, 'On Licensing' of 11 January 2007, 'On Public Registration of Real Estate Rights and Real Estate Businesses' of 26 July 2007, and other statutory acts.

9. International Experience in the Field

Administrative procedures have been long and steadily reflected in laws in western countries:

- US Administrative Procedure Act of 1946;
- German Law On Administrative Procedure of 1976;
- Swedish Law On Administrative Procedure of 1986;
- Austrian Law On Administrative Procedure of 1991;
- Spanish Law On Legal Regime of Public Administration Bodies and Common Administrative Procedure of 1992;
- Japanese Law On Common Administrative Procedure of 1993;
- Greek Code of Administrative Procedure of 1999;
- Finnish Law On Administrative Procedure of 2003.

Recently there is an increasing interest to adoption of such legal acts also in the post-Soviet countries:

- Common Administrative Code of Georgia of 1999 (consisting of 220 articles);
- Law of Armenia of 16 March 2004 'On Principles of Administrative Activity and Administrative Proceedings' (consisting of 113 articles);
- Law of the Kyrgyz Republic of 1 March 2004 'On Administrative Procedures' (consisting of 63 articles);
- Law of the Republic of Azerbaijan of 21 October 2005 'On Administrative Proceedings' (consisting of 91 article);
- Code of Administrative Procedures of the Republic of Tajikistan of 5 March 2007 (consisting of 141 articles);
- Law of Belarus of 28 October 2008 'On Principles of Administrative Procedures' (consisting of 48 articles);
- Draft Administrative Procedural Code of Ukraine submitted to the Verkhovna Rada (Ukrainian Parliament) on 18.07.2008 (consisting of 126 articles).

In this light, current LoAP RK significantly yields to the above legal acts both in its contexts and volume (consisting of 25 articles only).

10. Expected Financial Costs Related to the Draft Law

Enforcement of the draft law would not entail any financial costs. Moreover, unification of currently uncoordinated administrative procedures and systematization of administrative proceedings would permit significant downsizing of the governmental agencies' staff and thus decrease budget expenditure for their salaries.

**Draft Law
of the Republic of Kazakhstan
On Administrative Procedures
(new edition)**

Contents:

- Chapter 1. General Provisions
- Chapter 2. Principles of Administrative Procedures
- Chapter 3. Main Procedural Provisions
- Chapter 4. Stages of Administrative Procedures
 - Paragraph 1. Initiation of administrative case
 - Paragraph 2. Proceeding on administrative case
- Chapter 5. Administrative act
- Chapter 6. Procedure for administrative appeal
- Chapter 7. Procedure for enforcement of administrative acts
- Chapter 8. Liability of administrative procedure participants
- Chapter 9. Final Provisions.

This law is directed at establishing administrative procedures regulating activities of executive bodies and local self-government in relations with individuals and legal entities for implementation and protection of their rights and freedoms, including provision of public services in line with the principles of the rule of law and good governance.

Chapter 1. General Provisions

Article 1. Main Terms used in this Law

This Law uses the following main terms:

- 1) **Administrative procedure** is a legally established procedure for adoption, enforcement, voidance or cancellation of an administrative act based on applications from individuals or legal entities or by own initiative of administrative agencies, also the procedure of reviewing administrative appeals by relevant administrative agencies under the procedural rules established by this Law;
- 2) **Administrative agency** is an executive body, a local self-government body, their officials or other persons authorized to handle administrative cases in compliance with this Law and to issue administrative acts, also individuals and legal entities legally authorized to provide public services and issue administrative acts;
- 3) **Administrative act** is a legal act with individual application that has an external impact, is issued by an administrative agency based on results of administrative case reviewed in line with this law, also:
 - is intended for single or limited use;
 - (or) applies to a certain person or another certain group of persons in a situation

regulated by law;

- (or) establishes, changes, terminates or suspends rights and obligations of a certain person or another limited group of persons;

4) **Administrative case** is a case considered by an administrative agency in line with this law, to ensure implementation and protection of the rights and legal interests of individuals and/or legal persons, also their implementation of obligations stipulated by law;

5) **Administrative appeal** is a written application of an interested person to an administrative agency in connection with an administrative act, refusal to adopt an administrative act or action/inaction of the administrative agency for the purpose of implementing the person's rights and legal interests;

6) **Favorable administrative act** is an act providing or confirming rights to interested persons or relieving them from their obligation(s);

7) **Public service** is activity of administrative agencies, their lower organizations and other individuals and legal persons to issue free or paid administrative acts upon application of an individual and/or a legal entity (except for governmental agencies), with the purpose of ensuring implementation of their rights and legal interests;

8) **Discretionary powers** are the legal rights of an administrative agency for choosing one out of several possible decisions consistent with law;

9) **Public official** are persons who temporarily or under special authority fulfill public functions (functions of a government representative) and entitled to consider and settle administrative cases on behalf of an administrative agency, in the course of their independent regulatory activity;

10) **Interested person** is an individual and/or a legal entity applying to an administrative agency in relation to issuance of an administrative act or relevant action/inaction, also any individual and/or legal entity whose rights and legal interests have been or may be affected by an administrative act adopted or intended for adoption by the administrative agency, or action/inaction of the administrative agency, also the one who is involved in administrative procedures based on his/her application or at the initiative of the administrative agency following from his/her official duty.

11) **Application** is a written document sent by an interested person to the administrative person in relation with adoption of an administrative act or implementation of a right that belongs to him/her;

12) **Unfavorable administrative act** is an act depriving an interested person of or limiting his/her rights or placing on him/her certain obligation(s).

Article 2. Administrative Procedure Legislation

1. The legislation of the Republic of Kazakhstan on administrative procedures shall be based on the Constitution of Kazakhstan and shall consist of this law and other legal acts of the Republic of Kazakhstan.
2. In the event an international treaty ratified by the Republic of Kazakhstan

stipulates rules other than those contained in this Law, rules of the international treaty shall apply.

3. For separate types of administrative cases, statutory acts may establish specific details of administrative procedures with regard to the list of documents necessary for administrative case review and the review terms.
4. Specific details established pursuant to item 3 of this Article shall not be contradictory to the fundamental provisions on administrative procedures under article 3 of this Law.

Article 3. Inconsistence between statutory acts on administrative procedures and this law

1. A normative legal act on administrative procedures shall be deemed inconsistent with this Law if the act:

1) Is adopted by a body that has not legal right to issue such normative legal acts or is issued in violation of the established procedure for issuance of such normative legal acts;

2) revokes or limits rights of parties in relations regulated by this Law;

3) changes the content of specified obligations of parties in relations regulated by this Law;

4) prohibits or limits actions of parties in relations regulated by this Law that are prescribed, permitted or not directly prohibited by this Law;

5) permits or allows for actions prohibited by this Law;

6) changes specified grounds, terms, sequence or order of actions of parties in relations regulated by this Law;

7) changes the content of concepts and terms or uses these concepts and terms in a meaning other than used in this Law;

8) in any other contradicts general principles and/or literal content of specific provisions of this Law.

2. Normative legal acts are recognized as inconsistent with this Law in case of any of the circumstances listed in item 1 of this Article.

3. A normative legal act shall not be deemed inconsistent with this Law if it establishes additional guarantees for protection of rights and legal interests of parties concerned.

Article 4. Scope of this Law

1. This Law shall be applied to activities of administrative agencies that result in adoption of administrative acts, also to actions or inactions of administrative agencies that entail factual consequences for persons, including:

1) provision of special social services;

2) state registration of real estate rights and real estate businesses;

- 3) state registration of legal entities and registration of branches and representations;
- 4) domiciliary registration of citizens of the Republic of Kazakhstan;
- 5) registration of vehicles;
- 6) licensing;
- 7) issuance of permissions for separate types of works (services), operation of facilities or equipment;
- 8) technical regulation;
- 9) allotment of land parcels, areas of mineral deposits, forests, watercourses, also seizure of these areas and facilities from a proprietor or another legal owner;
- 10) provision of housing from public housing resources;
- 11) granting and payment of state pensions and allowances;
- 12) recognition of the status of an interested person that entitles him/her to receive benefits and privileges;
- 13) issuance of official documents that have legal importance;
- 14) provision, registration and suspension (termination) of other rights of interested persons.

2. This Law shall not apply to relations arising from activities of administrative agencies for:

- 1) handling of applications from individuals and legal entities containing proposals, inquiries or feedbacks;
- 2) consideration of cases stipulated by legislation on administrative offences, criminal procedure and civil procedure;
- 3) enforcement of court rulings;
- 4) adoption, registration, enforcement, alteration, amendment, termination or suspension of normative legal acts;
- 5) strategic, budgetary, and economic planning procedures specified by the legislation of the Republic of Kazakhstan.

Chapter 2. Principles of Administrative Procedures

Article 5. Principles of Administrative Procedures

Principles of administrative procedures include:

- 1) supremacy of law;
- 2) legality;
- 3) equality;
- 4) purposeful use of powers;
- 5) prohibition of refusal to apply law;
- 6) proportionality;

- 7) presumption of authenticity;
- 8) prohibition of abuse of formal requirements;
- 9) transparency and openness;
- 10) guaranteed individual's right for participation in administrative procedure;
- 11) 'the greater contains the less';
- 10) cost efficiency and effectiveness;
- 11) priority of interests of parties;
- 12) 'one-stop-shop' application;
- 13) impartiality of administrative agencies .

Article 6. Supremacy of Law

When considering an administrative case and issuing an administrative act, an administrative agency shall be guided by the supremacy of law principle, according to which an individual, his/her rights and freedoms are utmost values that determine the content and application of laws and other statutory acts.

Article 7. Legality

1. An administrative agency shall perform administrative procedures and adopt administrative statutory acts solely on the ground and within the competence of and by methods prescribed by the Constitution, this Law and other laws of the Republic of Kazakhstan, also on the basis of international treaties ratified by the Republic of Kazakhstan.

2. An administrative agency shall apply statutory acts adopted on the ground and within the competence of and by methods prescribed by the Constitution and laws of the Republic of Kazakhstan.

3. Administrative agencies shall restrict rights and freedoms of individuals only as envisaged and in cases stipulated by law.

4. Breaches of law by an administrative agency in performance of administrative procedures shall be unacceptable and shall entail legal liability, voidance or revocation of the adopted administrative acts.

Article 8. Equality

1. Everyone is equal under the law and to administrative agencies.

2. Rights of administrative procedure participants may not be restricted because of their origin, social status, office or property status, race or nationality, beliefs, gender, language, religion and occupation, place of residence, membership in public associations, also any other circumstances; also, for legal entities: regardless of their organizational and legal form, form of ownership, subordination and location.

3. An administrative agency may not make different decisions on different cases that have similar significant factual circumstances.

4. An administrative agency may not make similar decisions on different cases that have different significant factual circumstances.

5. An administrative agency shall exercise discretionary power in a similar manner and following a similar procedure.

An administrative agency shall have the right to refuse this self-limitation only in case it intends to always make a different discretionary decision in future.

Article 9. Purposeful Use of Powers

When considering an administrative case, also during discretion, an administrative agency shall use its powers solely for the purpose the powers are provided for.

The purpose of the power shall be specified in law or shall proceed from its general provisions.

Article 10. Prohibition of Refusal to Apply Law

An administrative agency that has to apply a legal norm to an individual or a legal person, shall be obliged to apply the norm upon application of a party or at its own initiative in cases that follow from its official position.

Article 11. Proportionality

Measures envisaging any restriction of rights and freedoms of individuals or legal persons shall be proportionate to the legal purpose pursued by the administrative agency, also necessary and adequate for achieving this goal in terms of their content, place, time and people involved.

Article 12. Presumption of authenticity

1. Data and information about factual circumstances submitted by persons and considered by an administrative agency shall be presumed authentic until proven otherwise by the administrative agency.

2. It shall be prohibited to require from persons submission of documents or additional information unless the requirement is stipulated by law.

3. In case an administrative agency has reasonable suspicion about authenticity of data and information submitted by persons, it shall on its own and at its own expense take measures to prove their authenticity.

4. Persons shall be held liable for submission of untrue data and information to administrative agencies.

Article 13. Prohibition of Abuse of Formal Requirements

1. Administrative agencies shall be prohibited to burden interested persons with obligations or to refuse provision of a right solely for the purpose of meeting formal requirements.

2. Failure of an interested person to comply with formal requirements shall not be used against him/her provided that his/her obligations are fulfilled in their content.

Article 14. Transparency and Openness

1. An administrative agency shall inform citizens about its activities in compliance with the Constitution and laws of the Republic of Kazakhstan for implementation of individual's right for obtaining information, also about administrative proceedings on cases, including acquaintance with materials not containing a state secret or another legally protected secret.

2. An administrative agency shall ensure public discussion of draft statutory acts pertaining to rights and legal interests of a large number of people.

3. Everyone shall have the right to get familiar with enforced normative legal acts adopted as stipulated by the legislation. This right may be limited in compliance with law for the interests of non-disclosure of confidential information about a person, a state secret or another legally protected secret.

Article 15. Guaranteed Right of Individuals for Participation in Administrative Procedure

1. Interested persons shall be guaranteed the right to participate in administrative procedure.

2. During consideration of an administrative case, an interested person shall have the right to be heard by the administrative agency prior to adoption of an administrative act, except for services prescribed by this Law.

The right to be heard shall be ensured by interested persons providing to the administrative agency their clarifications and/or objections in writing, verbally or in another form that is convenient for the person.

4. The administrative agency shall counsel and inform persons with regard to their rights and obligations.

Article 16. The Greater Contains the Less

1. Administrative agencies shall have no right to demand commitment of actions that have been already done by the persons as part of other actions.

2. If documents (data, information) provided to administrative agencies include contents of other necessary documents, the latter may no longer be additionally

or separately requested.

3. If permissions issued by administrative agencies also include the content of other permissions, the latter shall be also deemed issued.

Article 17. Efficiency and Effectiveness

An administrative agency shall arrange for administrative case proceeding in a manner to ensure most effective use of property in order to bring best results in shortest terms, in the same time to do no harm to performance of their powers.

Article 18. Priority of Interests of Persons Concerned

In case of unclear or vague provisions of a statutory act, administrative acts shall be issued by administrative agencies, with interests of parties concerned taken into account to the extent possible.

Article 19. On-Stop-Shop Application

1. In cases stipulated by this Law, interested persons shall submit applications to the Population Service Center with enclosed documents and/or information that are necessary to conduct an administrative procedure and may be submitted only by the interested persons.

2. When providing public services that require additional information from governmental agencies, state institutions or state-owned enterprises, entities providing public services shall obtain necessary information on their own, without requesting it from individuals or legal entities.

Article 20. Impartiality of Administrative Agencies

1. Public officials and members of collegial administrative agencies authorized to consider and make decisions on administrative cases may not participate in administrative procedures in case there is their personal interest or other circumstances that may influence adoption of an administrative act.

2. The procedure for consideration and decision-making on administrative cases shall ensure impartiality of the administrative agency.

Chapter 3. Main Procedural Provisions

Article 21. Line of Authority

1. Settlement of administrative cases related to individuals shall be part of the authority of the administrative agency on whose territory the person resides.
2. Settlement of an administrative case related to legal entities shall be part of the authority of the administrative agency on whose territory the office of the legal entity is located.
3. Settlement of an administrative case related to real estate shall be part of the authority of the administrative agency on whose territory the real estate is located.
4. In the event decision-making on an issue is part of the authority of two or more administrative agencies, the decision shall be made by the administrative agency that the person applied to or that initiated the issue.
5. In the event other laws stipulate another line of authority, also depending on the subject and factual circumstances of the administrative case, the other laws shall apply (subject-based line of authority)
6. In the event the interested person states that an administrative agency has the authority to resolve a case, and the agency itself does not recognize itself competent, it shall make a decision to refuse consideration of the case and shall without delay and on its own transfer the case for consideration to a competent agency and shall notify the interested person accordingly.

Article 22. Mutual Assistance of Administrative Agencies

1. Administrative agencies shall offer mutual assistance to one another (hereinafter – assistance) upon application.
2. Assistance of administrative agencies subordinated to each other shall not be deemed assistance.

Article 23. Grounds for Provision or Denial of Mutual Assistance

1. Administrative agencies shall mandatorily offer mutual assistance except for cases stipulated in items 2 and 3 of this Article.
2. Administrative agencies shall have no right to provide mutual assistance, if:
 - 1) measures taken as assistance are apparently unlawful;
 - 2) performance of activities necessary for assistance is not within the competence of the requested administrative agency;
 - 3) documents necessary for assistance (data, information) contain legally protected secrets, and their provision to the requesting administrative agency is prohibited by law, even if confidentiality of their provision is secured.

3. An administrative agency shall have no right to provide mutual assistance if:
 - 1) another administrative agency is in the position to offer assistance with significantly smaller efforts;
 - 2) mutual assistance requires efforts that are incommensurate to the assistance;
 - 3) provision of assistance can significantly interfere with performance of the agency's own powers.

4. In case an administrative agency denies assistance for one of the reasons stipulated in items 2 and 3 of this article, it shall no later than in three days notify the requesting administrative agency that shall have the right to appeal the denial in a higher administrative agency or court.

Nonreceipt of a response from the administrative agency shall be also deemed denial of assistance.

5. In the event the denial is recognized as groundless, the higher administrative agency or court shall instruct the administrative agency to immediately provide mutual assistance.

Article 24. Official Verification of Document Copies

1. Upon application of an interested person, an administrative agency shall verify authenticity of copies of administrative acts or other documents, unless the legislation stipulated the need for their notarization.

2. Copies of administrative acts or other documents shall be officially verified by signature of an official and seal on every page.

Verification of a copy of an administrative act or another document shall be subject to registration as necessary with a respective administrative agency.

3. Verified copies of administrative acts of other documents approved by an administrative agency as necessary shall have official effect.

4. Official verification shall not be required if the document is notarized.

5. Authenticity of copies of administrative acts or other documents shall be verified by an administrative agency free of charge within one day upon submittal of a respective application.

Article 25. Language of Administrative Procedure

1. Administrative procedures shall be performed in the national language, and if necessary also in the Russian or other languages together with the national language.

2. Persons involved in the case who have no or insufficient knowledge of the national language, shall be informed about and ensured the right to make statements, clarify and testify, apply with petitions, submit administrative complaints, get familiar with materials of the case, during the case proceeding to speak their native language or another language they can speak or use services of an interpreter free of charge.

3. Costs of interpretation and services of interpreter shall be paid from the national budget.

Article 26. Participants of Administrative Procedures

Participants of administrative procedures shall be:

- 1) interested persons;
- 2) administrative agencies performing administrative procedures and authorized to adopt respective administrative acts;
- 3) persons assisting in administrative proceeding on the case (witnesses, specialists, experts, interpreters, representatives of governmental agencies (local self-government)).

Article 27. Rights and Responsibilities of Interested Persons

1. In the process of administrative procedures an interested person shall have the right to:

- 1) submit applications to administrative agencies;
- 2) received from the administrative agencies clarifications about implementation of their rights and responsibilities, and the procedure of performing administrative procedures;
- 3) receive from the administrative agencies legally envisaged free forms of documents necessary for administrative procedures;
- 4) receive information about the date, time and location for administrative proceeding on the case;
- 5) participate in administrative procedures personally or via their proxies in the order envisaged by this Law.
- 6) follow the established procedure to get familiar with administrative case materials, take records and make copies, also using technical means, except for cases when a state secret or another legally protected secret needs to be protected;
- 7) be heard on issues that are the subject of administrative procedures, by giving explanations in writing, verbally or another form, also provide evidence, submit motions and appeals against explanations, arguments, also petitions of other participants in administrative procedures;
- 8) use interpreter services for free;
- 9) withdraw any of its statements at any time prior to adoption of an administrative act;
- 10) be informed about the results of the administrative case, receive a copy of the administrative act;
- 11) appeal against the administrative act, actions or inactions of the administrative agency.

During performance of administrative procedures a person shall also implement other rights stipulated by this Law.

2. During performance of administrative procedures an interested person shall:

- 1) provide documents and/or information necessary for the performance of the

administrative procedures, in cases stipulated by law;

2) timely inform administrative agencies about changes in his/her place of residence or stay in the period of performance of the administrative procedures;

3) timely notify the administrative agency that he/she cannot appear upon invitation of the administrative agency, indicating the reason;

4) faithfully perform requirements set by this Law and other legislative acts of the Republic of Kazakhstan.

Article 28. Powers of Administrative Agency

1. Powers of administrative agencies include:

1) timely involve interested persons and persons assisting in administrative proceedings on the case;

2) inform administrative procedure participants about their rights and responsibilities, promote their implementation, also by issuing application forms and other forms related to the administrative procedures, sending them by mail or other means of communication ensuring registered receipt by addressee;

3) provide access for administrative procedure participants to materials of the case, provide them information about the administrative case status, also upon their application;

4) notify interested persons in advance about the date, place, and time of the administrative proceeding;

5) enable personal involvement of interested persons in the administrative proceeding;

6) publish full information about the activity of the administrative agency and public services it provides on online resources of the administrative agency in compliance with item 2 of this article.

2. Online resources of the administrative agencies shall contain:

1) general information about the activities of the administrative agency;

2) listing of structural units of the administrative agency and organizations under its jurisdiction, also information about their managers;

3) listing of territorial branches (if any), their objectives and functions, also information about their managers;

4) listing of registries, registers, cadastres managed by the administrative agency;

5) listing of open-access electronic information resources and e-services provided to individuals and legal entities;

6) statutory acts adopted by the administrative agency and enacted;

7) examples of application forms accepted by the administrative agency for consideration in compliance with laws and other statutory acts;

8) information about open tenders and auctions, expert examinations and other events, also eligibility terms for individuals and legal entities;

9) information about the procedure of handling applications from individuals and

legal entities and legal entities in the administrative agency, citizen visiting hours, application reviews, information about application processing results and measures taken;

10) information about vacant positions at the administrative agency, requirements to qualifications of candidates for the vacant public service positions;

11) texts of official statements and speeches of administrative agency managers and their deputies;

12) the hotline service;

13) interactive citizen polls;

14) news line;

15) official statistics and/or indicators characterizing the status and dynamics of the field (sphere), namely, related to the administrative agency jurisdiction;

16) analytical reports and reviews of informative character about the administrative agency activities;

17) mail addresses, email addresses, telephones of the agency's inquiry service, its units, territorial branches and lower organizations;

18) other sections.

The news line on the administrative agency website shall be updated daily, other sections shall be updated as necessary but no rarer than once a week.

3. Unless the law envisages otherwise, prior to adoption of the administrative act the administrative agency shall inform interested persons or their proxies about its content, namely, about the established factual circumstances of the case and measures foreseen, also shall hear their feedback.

4. The administrative agency shall have the right to reject the obligations stipulated by item 3 of this article in the following cases:

1) if a favorable administrative act is adopted;

2) if there is a need to immediately adopt the administrative act in order to prevent or eliminate danger that could harm interests of the public or the state;

3) if the administrative act is adopted by means of special technical tools and automatic equipment;

4) if measures are envisaged for compulsory enforcement of administrative acts.

Article 29. Representation in Administrative Procedures

1. Parties may participate in administrative procedures personally, via or together with their proxies.

2. Proxies of parties in administrative procedures may be persons authorized as envisaged by the Civil Code of the Republic of Kazakhstan, including layers.

3. Upon demand of an administrative agency, proxies of parties in administrative procedures shall produce a power of attorney or a document confirming them as legal representatives.

4. Persons assisting administrative proceeding on the case shall participate in

administrative procedures only personally.

Article 30. Appointment of Experts and Specialists

1. Upon petition of interested persons or by its own initiative, an administrative agency may decide to conduct an expert examination for clarifying issues related to factual circumstance of the administrative case.

2. Administrative agency shall make a decision on the expert examination and specify in the decision the range of issues that require expert evaluation (subjects of expert evaluation).

3. Interested persons shall have the right to propose to the administrative agency additional issues to be investigated during the expert examination as well as additional documents related to the issues. The administrative agency shall justify exclusion of any issues proposed by interested persons.

4. The expert examination shall be based on a decision made by the administrative agency and shall be conducted by the following experts who have special scientific knowledge:

- 1) staff members of forensic examination bodies;
- 2) persons licensed for conducting forensic examination *основании*;
- 3) other persons on a single-time basis, as required by law.

Unless stipulated otherwise by the legislation of Kazakhstan, an expert shall submit an expert opinion report about the examination within the term set by the administrative agency.

Upon demand of the administrative agency of an interested person, the expert shall provide additional clarifications about the expert opinion report.

Unless stipulated otherwise by the legislation of Kazakhstan, costs associated with the expert examination shall be reimbursed from the budget of the administrative agency.

5. For the purpose of assisting in collection, examination and evaluation of evidence by means of consultations (clarifications) as well as assisting the administrative agency in the use of scientific and technical means, a non-interested person who is of age and has special knowledge may be involved as a specialist upon petition of interested persons or by his/her own initiative.

Article 31. Recusation of a Collegial Body Member, an Official, or Persons Assisting in Administrative Case Proceeding

1. A member of a collegial body or an official from an administrative agency or a person assisting in case proceeding may not participate in the administrative proceeding on the case and shall be recused if:

- they are related to any of interested persons or their proxies;
- (or) participated in previous administrative proceeding on the case as a proxy or a person assisting the case proceeding;

- (or) he/she or any member of his/her family has stocks or a share in authorized capital of the legal entity that is an interested party in the case;
 - (or) he/she personally, directly or indirectly, is interested in the case outcome or there are other circumstances causing reasonable doubts about his/her impartiality.
2. Persons relating to each other may not be members of the collegial body handling the administrative case.
 3. An expert or a specialist shall be also recused in the following cases:
 - If he/she is subordinated or otherwise dependent on persons participating in the case or their proxies;
 - (or) if he/she conducted the audit revealing the information that became the basis for initiation of or are used for the administrative procedures.
 4. Participation of a specialist, an expert in the previous administrative proceeding on the case in the capacity of specialist, expert, or an interpreter shall not be a reason for his/her recusation.
 5. For the purposes of this Article, relatives (family members) shall be children (including adopted ones), spouse(s), parents, brothers, sisters, also grandfather and grandmother, both by the father's and mother's side, and grandchildren.

Article 32. Procedure for Self-Recusation

1. Under circumstances stipulated in Article 31 of this Law, a member of collegial body or an official authorized to handle the administrative case shall recuse himself/herself. An interested person may also recuse himself/herself for the same reason.
 2. Recusation and self-recusation shall be motivated and announced prior to adoption of an administrative act on the case.
 3. In case of recusation the collegial body (official) handling the case shall hear opinions of all interested persons involved in the case, also shall hear the recused person if he/she wants to give explanations.
 4. A decision on recusation of authorized officials independently handling the administrative case shall be made by their immediate supervisors.
 5. A decision on recusation of one, some, or all members of the collegial body shall be made by head of the administrative agency.
 6. A decision on recusation of persons assisting with the administrative proceeding on the case shall be made by an official from the administrative agency handling the administrative case.
 7. An application for recusation shall be considered within one working day from the moment of recusation.
 8. In case of recusation of an authorized official, the administrative case shall be handled by another official as specified by head of the respective agency.
- In case of recusation of one, some, or all members of the collegial body, the administrative case shall be considered by the collegial body with different members or another collegial body as decided by head of the respective agency.

9. A decision on recusation may be appealed against as specified in Chapter 6 of this Law.

Chapter 4. Stages of Administrative Procedures

Paragraph 1. Initiation of Administrative Cases

Article 33. Grounds for Initiation of Administrative Cases

1. Administrative cases may be initiated on the following grounds:

- 1) application of an individual;
- 2) initiative of an administrative agency on adoption of an administrative legal act;
- 3) administrative complaint.

2. In cases specified by sub-items 1), 3), item 1 of this article, administrative procedures shall be initiated on the moment of registration of an application or a compliant.

3. In cases specified by sub-item 2), item 1 of this article, administrative procedures shall be initiated upon notifying the interested person about the procedures or upon committing the first procedural action with respect to the interested person.

4. Administrative procedures initiated on the ground of sub-items 1) and 2), item 1 of this article shall be administered according to the rules established by this chapter.

5. Administrative procedures initiated on the grounds of sub-item 3), item 1 of this article shall be administered in conformity with the rules stipulated by this chapter, considering corresponding provisions of chapter 3 of this Law.

Article 34. Application Requirements

1. An application shall be submitted in writing.

2. A written application shall be submitted to an administrative agency either by the applicant or his/her proxy, authorized by law, or sent by mail or other means of communication that ensure registered receipt of the application by the administrative agency.

3. The application shall contain the following information:

- 1) name of the administrative agency applied to;
- 2) applicant's family name, first name, patronymic (if it is indicated in his/her ID), address, and ID information if the applicant is an individual;
- 3) applicant's name and legal address if the applicant is a legal entity;
- 4) application summary;
- 5) application date and applicant signature;
- 6) signature of a head or a representative of the legal entity, seal of the legal entity;
- 7) list of documents enclosed with the application.

4. Applications submitted in the form of electronic documents shall be certified by an electronic digital signature according to the Law of the Republic of Kazakhstan On Electronic Document and Electronic Digital Signature.

5. The Government of the Republic of Kazakhstan establishes standard application forms of interested persons for separate administrative procedures.

Article 35. Documents Enclosed with Application

1. Documents required for the administrative procedure shall be enclosed with the application and produced only by the interested person.

Enclosed documents shall not be documents that are available in the administrative agency or may be obtained by the agency from other public agencies or organizations, public registers, registries, cadastres, lists, catalogues, databases and databanks.

2. Applicants shall not be required to produce any documents beside those listed in item 1 of this article and documents certifying:

- 1) identity of the applicant;
- 2) official position and identity of the head of the legal entity;
- 3) official registration of a legal entity or a private entrepreneur;
- 4) powers of a proxy of the interested person;
- 5) agreement of the interested person to provide to a corresponding administrative agency or other public agencies upon their request documents and/or information required for the administrative procedure, pertaining to an individual person, commercial secret or other official secrets, unless the interested person has provided such documents and/or information independently;

6) payment for issuance of documents and/or information, requested by the authorized agency while handling the administrative procedure, if such payment is envisaged by the law, unless the interested person has provided such documents and/or information on his/her own.

3. The administrative agency shall request documents and/or information required for the administrative procedure additionally to that provided by the interested person on the basis of mutual assistance.

Article 36. Recovery of Formal Errors in Applications

1. The administrative agency shall inform the applicant on presence of recoverable errors in the application, if there are any, and shall either allow him/her to recover them independently or do it on its own, informing the applicant on error recovery before or after it and on legal effect of non-compliance with formal requirements.

2. If the list of documents enclosed with the application is incomplete, the administrative agency shall offer the applicant to complete it within the set term.

Article 37. Reception of Citizens

1. Heads of public agencies and their deputies shall receive citizens, including officials from these agencies, at least once a month, according to a reception schedule approved by heads of the agencies.

2. Citizens shall be received at appointed dates and hours brought to their notice.

3. There shall be free access to the reception premises.

4. Applications of interested persons unresolved during the reception shall be done in writing and directed for consideration according to the procedure established by this Law.

Article 38. Reception and Registration of Applications or Motions

1. The administrative agency shall receive applications submitted personally or sent by mail or other means of communications ensuring registered receipt and shall register them on the same day.

2. The administrative agency shall issue or send to the applicant the registration date and number certificate within two days after application receipt.

3. The administrative agency shall receive a petition and enclose it with the case.

4. No person shall be denied the application receipt or registration or petition receipt and enclosure with the case.

Article 39. Referral of Applications to Competent Administrative Agencies

1. If the administrative agency is unauthorized to deal with application issues, it shall promptly direct the application to a competent administrative agency for consideration of its merit and shall simultaneously inform the applicant about that. In that case, application date shall be the date of application receipt by the competent agency.

2. If one or more application issues fall within the competence of a different administrative agency, the administrative agency applied to shall redirect these to the competent agency and inform the applicant about that.

With respect of other issues, administrative case shall be initiated according to the general procedure.

Article 40. Non-consideration of Applications

1. A competent administrative agency may leave an application unexamined if:

1) it learns of an earlier decision, concerning the applicant (applicants), based on the same grounds as that indicated in in his/her application, except for the grounds specified in Article 41 of this Law;

2) a court decision pertaining to the same case has entered into force;

3) provisions of article 34 of this Law have been disregarded.

2. If the administrative agency decides to leave an application unexamined, it shall notify the applicant about that within two days, provide legal reasoning of this decision and inform him/her on the procedure for appealing the decision.

Article 41. Grounds for Applying for Resumption of Administrative Procedures

1. Interested persons may re-apply to the administrative agency if:

1) factual or legal situation that conditioned adoption of the administrative act has changed in favor of the interested person;

2) new evidences able to cause adoption of an administrative act more favorable to the applicant have been revealed;

3) an administrative act has been adopted as a result of violence, threats, fraud or other illegal actions or if court found a representative of the administrative agency guilty of committing an offense in the course of the procedure.

2. The application shall be accepted only if the interested person has demonstrated that he/she was previously unable, for reasons which did not depend on him/her, to present the grounds for resumption of procedure listed in paragraph 1, in the course of the previous procedure.

3. The interested person shall re-apply within three months after appearance of circumstances enabling procedure resumption.

4. The application shall specify grounds for re-applying for administrative procedure resumption, otherwise the administrative agency shall leave the application unconsidered.

Article 42. Grounds for Administrative Case Initiation by Administrative Agency

Statutory requirement for administrative act adoption with ensuing necessity or discretionary powers, legally vested in the administrative agency, enable initiation of administrative procedures at the administrative agency initiative.

Article 43. Notice of Administrative Procedure

The administrative agency shall notify the participants or their proxies of administrative procedure within two days after its initiation. The administrative agency shall inform the persons and if necessary witnesses, experts, specialists, interpreters and representatives of other agencies about places, dates, time and other circumstances of procedure events.

Paragraph 2. Consideration of Administrative Cases

Article 44. Versatility, completeness and objectivity of administrative procedures

1. The administrative agency shall examine facts of case in versatile, complete and objective manner and shall establish all facts, including those speaking in favor of the interested person.

2. The administrative agency shall not reject applications and documents, submitted by administrative procedure participants, being relevant to the procedure and falling within the administrative agency's competence.

Article 45. Hearing of Participants in Administrative Procedure

1. The administrative agency shall allow administrative procedure participants to speak on facts, viewed during the procedure.

2. Hearing is not mandatory in cases specified by sub-items 1), 2), 3), item 4, article 28 of this Law.

Article 46. Availability of Administrative Procedure Materials

1. Administrative case materials shall be made accessible to examination within three days after application. Administrative procedure participants shall be allowed to abstract or copy the materials, using equipment when necessary.

2. While providing materials to examination the administrative agency shall secure state secret or other legally protected secrets except for cases specified by legal acts.

Article 47. Elimination of defects in administrative case documents

1. When detecting any errors, pencil marks or misprints in documents submitted by procedure participants, the administrative agency shall bring them to attention of participants to enable their correction or shall correct obvious errors and misprints in presence of the participants.

2. Provisions of item 1 of this article do not concern errors, pencil marks, misprints or other defects that shall be corrected by legally authorized agencies that have adopted or issued the documents.

Article 48. Proof in Administrative Procedures

1. Legally obtained facts, allowing the administrative agency to establish availability or absence of conditions for just solution of case shall be recognized as proof in administrative case.

2. The facts shall be established based on documents, explanations of procedure participants, reports of witnesses, expert opinions and other evidence significant for just solution of case.

Article 49. Burden of Proof

1. While establishing facts of case the administrative agency shall independently obtain and examine proof that it considers appropriate and necessary.

2. Administrative procedure participants shall contribute to establishment of all facts of case, provide information on facts pertaining to the case and relevant proof that they have.

Article 50. Term of Administrative Procedure

1. A competent administrative agency shall decide for or against administrative act adoption within thirty days after it registered an application or initiated the administrative procedure. Other legal acts of the Republic of Kazakhstan may establish other terms of administrative procedures.

2. Separate actions pertaining to administrative procedures shall be conducted within the terms specified in this Law and other laws of the Republic of Kazakhstan.

3. Terms unspecified by law shall be specified by the administrative agency.

4. Onset of the term, specified by the administrative agency, is the moment of notification of the interested person or publication of corresponding information in cases stipulated by laws of the Republic of Kazakhstan.

5. Terms shall be specified in calendar days.

6. When the term ends on a day off, the next workday shall be considered as the end of term.

Article 51. Extension of the Term

1. Terms of administrative procedures may be extended up to thirty days if:

1) it is necessary to obtain additional information or documents that can be provided only by the interested person and no disposition decision can be made before the expiration of the time period;

2) provision of expert opinion requires more time than stipulated by law;

3) several agencies are involved in adoption of the administrative act.

2. If the administrative agency decides to extend the term of administrative procedures it shall notify participants or their proxies in accordance with the established procedure.

Article 52. Non-adoption of Administrative Acts within Administrative Procedure Term

Non-adoption of an administrative act, initiated on grounds of an application, within the legally specified term of administrative procedure implies that:

1) the administrative act shall be recognized as adopted and the applicant shall be

entitled to exercise a corresponding right;

2) if the application pertains to issuance of a legal document confirming or verifying some fact (birth, death, absence of a person in a concrete place and etc.), the applicant shall be released from obligations or responsibility set by law for the lack of these documents.

Article 53. Expenses

1. Unless otherwise specified by law of the Republic of Kazakhstan, a corresponding administrative agency shall pay expenses related to administrative procedures.

2. Unless otherwise specified by law of the Republic of Kazakhstan, the interested person shall pay his/her or his/her proxy's expenses related to administrative procedures, also representative expenses.

3. Expenses pertaining to administrative complaint procedures shall be paid by a corresponding administrative agency.

Chapter 5. Administrative Act

Article 54. Form of an Administrative Act

1. An administrative act shall be adopted in writing in form of a decision, order, decree, resolution or other form prescribed by law, shall be signed by an authorized public official and sealed by the administrative agency.

An administrative act may be adopted by making entries in registers, registries, databases and other documents or information resources.

2. In cases specified by law, an administrative act shall be adopted verbally or in the form of light or vocal signals or signs.

Verbal administrative act shall be done in writing upon request of the addressee.

Article 55. Requirements for Written Administrative Acts

1. The administrative act shall meet the following requirements:

- 1) Comply with the Constitution of the Republic of Kazakhstan, the given Law and other normative legal acts and administrative acts of superior administrative agencies;
- 2) administrative act framework shall clearly specify issues to be solved, while its content shall ensure uniform comprehension and application of the act;
- 3) the administrative act shall specify content of planned measures, determine the circle of persons it may concern and/or those responsible for its implementation within the set term;
- 4) administrative acts to be implemented at lower levels shall contain concrete instructions on their implementation for concrete administrative agencies and/or officials.

2. Alongside with requirements, specified in item 1 of this article, an administrative act shall have the following entries:

- 1) name of the administrative act, place and date of its adoption, registration number;
- 2) full name of the administrative agency that has adopted the administrative act;
- 3) name and address of the legal entity or last name, first name, patronymic (if it is indicated in the ID) and address of an individual to whom the administrative act is directed;
- 4) title, representing the matter at issue;
- 5) description of the issue (narrative);
- 6) rationale for the act (motivation);
- 7) presentation of decision (operative part);
- 8) information on term, agency and court where the act may be appealed;
- 9) signature (signatures) of a person (persons) authorized to sign a corresponding act;
- 10) seal of the corresponding agency.

3. An administrative act may contain appendices making its constituent part.

Article 56. Administrative Act Rationale

1. A written administrative act shall involve rationale, specifying:

- 1) facts of administrative case, established by the administrative agency;
- 2) evidence behind conclusions on the facts;
- 3) reasons for which the administrative agency rejects evidence and declines to apply laws and other normative legal acts referred to by interested persons;
- 4) laws and normative legal acts followed by the administrative agency while adopting the administrative act.

2. Alongside with requirements, specified in item 1 of this article, a written administrative act, adopted within the frames of discretionary powers, shall present reasons behind the decision.

3. No rationale is required in case of:

- 1) adoption of a favorable administrative act, not concerning interests of third parties;
- 2) publication of the administrative act.

Article 57. Notification of Administrative Act Adoption

1. The administrative agency shall inform interested persons or their proxies about adoption of written administrative act by handing it over to them or publishing it within three days after the moment of its adoption.

2. Administrative act shall be either:

- 1) handed over to the addressee, who shall sign it upon receipt;

2) sent by mail or other means of communication, enabling registered receipt of the application by the addressee.

3. An administrative act, handed over as described in sub-item 1), item 2 of this article, shall be considered notified of on the day of delivery.

An administrative act, delivered according to sub-item 2), item 2 of this article, shall be considered notified of three days after the moment of sending.

4. An administrative act may be published in mass media issued in the administrative agency's operation area at least once a week, if:

1) administrative agency has no information on persons, whose interests are influenced by the administrative act;

2) administrative act influences interests of more than fifty persons;

3) in other cases at the administrative agency's initiative.

5. A published administrative act shall be considered notified of on the expiry of two weeks after the moment of its publication.

6. A verbal administrative act shall be considered notified of on the moment of its adoption by its verbal communication to the addressee.

7. Subject-matter administrative act in the form of light or vocal signals and signs shall be presented in visible and perceptible way or other way comprehensible for interested persons or their proxies.

8. In disputes related to notification of administrative acts, burden of proof lies with the administrative agency.

Article 58. Correction of Errors, Misprints and Slips in Administrative Acts

1. The administrative agency may correct errors, misprints, slips of the pen in an administrative act at its own initiative or upon the request of the interested person.

2. The administrative agency may obtain on demand a document necessary for correction.

3. Corrections in an administrative act shall be certified by a signature of a corresponding official.

4. The administrative agency shall inform the interested person on corrections in the administrative act according to the procedure described in article 57 of this Law.

Article 59. Administrative Act Effectiveness and Term

1. A written administrative act takes effect on the next day after notification of adoption, according to the procedure specified in article 57 of this Law, unless otherwise stipulated by law or the act.

2. Verbal and subject-matter administrative acts take effect on the moment of notification.

3. An administrative act, comprising provisions that connect effectiveness of the act or its part with the onset of certain conditions or circumstances, shall take effect upon

the onset these conditions or circumstances.

4. A written administrative act remains in force until its revocation, expiration, voiding or invalidation.

5. If administrative act effectiveness is related to commitment of an action or onset of an event, term of the act ends upon commitment of the action or onset of the event.

Article 60. Void Administrative Act

1. The following types of administrative acts shall be considered void:

- 1) administrative acts adopted by an unidentified administrative agency;
- 2) administrative acts adopted by an incompetent administrative agency;
- 3) administrative acts failing to identify the addressee;
- 4) administrative acts obliging the interested person to commit actions entailing administrative or criminal liability;
- 5) administrative acts, placing obviously illegal obligation on or giving an obviously illegal right to an interested person.

2. Void administrative act is invalid, has no legal force from the moment of its adoption and is not liable to implementation or application.

3. Administrative agency, adopting a void administrative act, shall immediately confirm its nihility at its own initiative or upon request of the interested person.

Article 61. Revocation of Illegal Administrative Act

1. An act, adopted by an administrative agency in violation of procedural or substantive norms shall be considered illegal.

2. Illegal administrative act may be revoked by the administrative agency that adopted it or by a higher administrative agency in legal form.

3. An illegal unfavorable administrative act shall be subject to mandatory revocation. Unless otherwise specified by laws of the Republic of Kazakhstan, revocation of an illegal unfavorable administrative act shall cancel any legal consequences of the act.

4. No revocation of an illegal favorable administrative act shall be allowed if the interested person confides in substance of the act and the confidence is liable to legal protection without damaging legal interests of other individuals, state or public interests. An interested person, having spent allocated funds or assets and being unable to repay them or incurring considerable loss if doing so, shall have the right to legal protection of his/her confidence.

5. An interested person shall have no right to protection of confidence, specified in item 4 of this article, in the following instances:

- 1) if he/she used violence, threats, fraud and other illegal methods in order to promote adoption of the administrative act;
- 2) if he/she submitted false or deliberately distorted information in order to promote

adoption of the administrative act;

3) if he/she was aware of illegality of the administrative act or was unaware of it due to gross negligence.

6. An illegal favorable administrative act shall be revoked in cases specified in item 5 of this article. Revocation of the act shall cancel legal consequences of the act and the interested person shall reimburse the spent funds or assets. Reimbursement size shall be determined in conformity with provisions of the Civil Code of the Republic of Kazakhstan pertaining to unjust enrichment.

7. An illegal favorable administrative act, causing damage to legally protected interests of other individuals, state or public interests, shall be revoked and all legal consequences of the act shall be cancelled.

8. An illegal administrative act shall be revoked within one year after disclosure of circumstances causing revocation. This rule does not apply to the cases specified in sub-item 10, item 5 of this article.

9. An interested person shall be notified of revocation of illegal administrative act according to the procedure specified in article 57 of this Law.

Article 62. Revocation of Legal Administrative Act

1. A legal unfavorable administrative act may be revoked fully or partially by the issuing agency unless its revocation is prohibited by law.

2. Revocation of a legal favorable administrative act is admissible only if:

1) revocation is explicitly provided for by law or if there is a corresponding note in the act;

2) interested persons failed to use or did not use privileges (rights) provided by the administrative act in a proper time and manner;

3) effectiveness of the act may damage state or public interests due to the onset of legal or factual circumstances after the act adoption;

4) administrative agency was disintituled to adopt the administrative act due to change of a legal norm that conditioned its adoption; if the interested person failed to enjoy privileges (rights) ensured by the administrative act or if engagements stipulated by the act in relation to the interested person have not been met.

2. Revocation of a legal administrative act shall cancel legal consequences of the act.

3. A legal administrative act shall be revoked within one year after disclosure of circumstances causing revocation.

4. An interested person shall be notified of revocation of legal administrative act according to the procedure specified in article 57 of this Law.

Article 63. Partial Voidance or Revocation of Administrative Act

1. A separate part of an administrative act may be voided or revoked provided that

other parts can retain their validity and effectiveness independently.

2. Voidance or revocation of a separate part of an administrative act shall be in compliance with the procedure specified in articles 60, 61, 62 of this Law.

Chapter 6. Procedure for Administrative Appeal

Article 64. Right to Administrative Appeal

Interested persons have the right to appeal administrative acts, against the refusal to adopt an act, also actions or inaction of an administrative agency.

Article 65. Procedure of Administrative Appeal

1. An administrative appeal may be directed to the administrative agency issuing the legal act or a higher administrative agency.

2. An administrative appeal may be submitted to a higher administrative agency via the issuing agency that shall redirect the act to the higher agency no later than the next day after its receipt.

3. In case of simultaneous submission of an administrative appeal and administrative claim, the latter shall be liable to judicial settlement.

4. In the case specified in item 3 of this law, proceedings initiated in the administrative agency shall be discontinued.

Article 66. Term of Administrative Appeal

1. An administrative appeal shall be submitted within thirty days after the administrative act takes effect or an action (inaction) takes place.

2. A failure to submit the appeal within the set term for good reasons, including acts of God, shall entail resumption of the term by the administrative agency upon the interested person's request.

Article 67. Form and Content of Administrative Appeals

1. An administrative appeal shall be made in writing and shall contain the following information:

- 1) name of the administrative agency appealed to;
- 2) name and legal address of a legal entity or family name, first name, patronymic (if it is indicated in the ID) and address of the appellant;
- 3) administrative act or action (inaction) appealed;
- 4) appellant's claim;
- 5) date and appellant's signature.

2. If the administrative appeal fails to comply with formal requirements, specified

in item 1 of this article, the administrative agency shall act according to article 36 of this law.

Article 68. Non-consideration of Administrative Appeals

1. In case of incompliance with provisions of item 1 article 67 of this Law, availability of a court decision on the subject of appeal or violation and non-restoration of term of administrative appeal, the administrative agency shall abandon the appeal.

2. When abandoning an administrative appeal, the administrative agency shall notify the interested person within three days from the appeal receipt, according to the procedure specified in article 57 of this Law.

3. Prior to making a decision on an appeal the administrative agency shall allow an appellatant to express his/her opinion.

Article 69. Legal Consequences of Administrative Appeals

1. Submission of an administrative appeal shall not cause suspension of the appealed administrative act.

2. The appealed administrative act may be suspended by decision of an administrative agency, based on immediate consideration of the interested person's application or at the agency's initiative.

3. Decision on suspending an administrative act shall be justified in conformity with article 56 of this Law.

Article 70. Terms of Handling Administrative Appeals

Unless otherwise stipulated by a respective law, the administrative agency shall consider the administrative appeal and make a disposition decision within thirty days after its receipt.

Article 71. Procedure for handling administrative appeals

1. Unless otherwise specified in this chapter, administrative appeals shall be handled according to the procedure specified in chapter 4 of this Law.

2. Administrative appeal shall be considered in view of legality of the appealed act, and for administrative acts adopted in the context of discretionary powers, in view of adequate and proportional use of powers.

3. While considering an administrative appeal, the administrative agency shall rely on available and additionally produced evidence.

Article 72. Resolution of Administrative Appeals

1. Upon reviewing an administrative appeal, the administrative agency shall make one of the following decisions:

- 1) leave the administrative act unchanged and reject the appeal;
- 2) fully or partially revoke or modify the appealed administrative act, adopt a new administrative act; allow an appeal fully or partially;
- 3) obligate the administrative agency to adopt a corresponding legal act or perform a corresponding action.

3. A decision on the administrative appeal is an administrative act that shall comply with requirements for legal acts specified in this Law.

Chapter 7. Procedure for Enforcement of Administrative Acts

Article 73. Procedure for Execution of Administrative Acts

1. The administrative act shall be liable to execution upon coming into force.
2. A favorable administrative act, requiring no actions of administrative agencies, shall be implemented by the interested person on a voluntary basis.

In other cases, decision-making agency shall be responsible for implementation of the administrative act.

3. Interested persons shall be entitled to implement the administrative act using legal ways and means that they consider the most lucrative.

Article 73. Administrative Act Execution Term

Unless otherwise specified by normative legal acts, the administrative act shall be executed within ten days on a voluntary basis.

Article 74. Enforcement of Administrative Acts

1. Administrative acts that have not been executed voluntarily within the term specified in article 73 of this Law may be enforced through following enforcement measures:

- 1) performance of actions at the expense of the responsible person;
 - 2) direct enforcement.
2. Enforcement measures shall be proportional.

Article 75. Performance of Actions at the Expense of Responsible Person

1. If a responsible person fails to perform an action (inaction) prescribed by the administrative act and if the action can be performed by another person or organization, the administrative agency shall charge this person or organization to do so at the expense of the responsible person.

2. In cases specified in item 1 of this article the responsible person shall cover expenses related to execution of the administrative act.

Article 76. Direct Enforcement

1. In case of a failure to execute an administrative act by performing corresponding actions at the expense of the responsible person, or impossibility to perform actions at the expense of such person for objective reasons, the administrative agency may compel the responsible person to performing concrete actions or abstaining from them or may perform the necessary actions on its own.

2. Direct enforcement may imply corresponding measures prescribed by legal acts of the Republic of Kazakhstan.

3. Direct enforcement measures may be applied only by authorized administrative agency according to the procedure established by law.

Article 77. Notice of Enforcement Measures

1. Administrative agency shall notify interested person in writing about application of enforcement measures, specifying the term of fulfillment of a corresponding obligation by interested person in an acceptable and legal way.

2. In urgent cases related to prevention or avoidance of hazard to state or public interests, the interested person may not be notified in advance of application of enforcement measures.

Chapter 8. Liability of Administrative Procedure Participants

Article 78. Liability of Administrative Agencies

A respective administrative agency assumes liability for harm inflicted to an interested person by illegal administrative acts or actions (inaction), as prescribed by the Civil Code of the Republic of Kazakhstan.

Article 79. Liability of Administrative Agency Officials

Officials of administrative agencies assume criminal, administrative, disciplinary or material liability for violation of provisions of this Law in accordance with the procedure established by laws of the Republic of Kazakhstan.

Chapter 9. Final Provisions

Article 80. Implementation of the Law

1. This Law shall be implemented on the expiry of nine months after the date of its official publication, during which governmental agencies and officials shall bring their subordinate legislation, regulating administrative procedures, in conformity with this Law.

2. The Law of the Republic of Kazakhstan On Administrative Procedures of 27 November 2000 (Bulletin of the Parliament of the Republic of Kazakhstan, 2000, № 20, p. 379; 2004, № 5, p. 29; 2007, № 12, p. 86; № 19, p. 147; 2008, № 21, p. 97; 2009, № 15-16, p. 74; № 18, p. 84; 2010, № 5, p. 23; № 7, p. 29) shall be recognized as void;

3. After the Law takes effect, other legal acts shall be applied in conformity with this Law.

4. After this Law takes effect, the Law of the Republic of Kazakhstan ‘On the Procedure for Administration of Claims from Individuals and Legal Persons’ of 12 January 2007 shall be applied only with regard to proposals, requests and responses.

President of the Republic of Kazakhstan

N. Nazarbaev