

Areas of application of mediation

CRIMINAL CODE OF THE REPUBLIC OF KAZAKHSTAN

Article 68. Exemption from criminal liability in connection with reconciliation

1. A person who has committed a criminal offense or a crime of minor or medium gravity, not related to causing death, is subject to exemption from criminal liability if he reconciled with the victim, the applicant, including through mediation, and made amends for the harm caused.

2. Minors, pregnant women, women with young children, men raising young children alone, women aged fifty-eight and over, men aged sixty-three and over, who have committed a serious crime for the first time, not related to causing death or serious harm to human health, may be exempted from criminal liability. responsibility, if they reconciled with the victim, the applicant, including through mediation, and made amends for the damage caused. Upon release from criminal liability, compulsory measures of educational influence are applied to a minor.

3. In cases where a criminal offense has caused harm to the legally protected interests of society and the state, the person specified in part one or two of this article may be released from criminal liability if he has sincerely repented and made amends for the harm caused to the legally protected interests of society or the state.

4. The provisions of this article shall not apply to persons who have committed:

1) torture;

2) crimes against the sexual integrity of minors, with the exception of the case of the commission of such a crime by a person who has not reached the age of majority, in relation to a minor aged from fourteen to eighteen years;

3) crimes by negligence that caused the death of a person or the death of two or more persons, with the exception of the case of a traffic accident that caused the death of his close relatives, spouse (spouse) by negligence;

4) corruption crime;

- 5) terrorist crime;
 - 6) extremist crime;
 - 7) a crime committed as part of a criminal group;
 - 8) during the limitation period for bringing to criminal responsibility, established by part one of Article 71 of this Code, an intentional crime after being released from criminal liability in connection with the reconciliation of the parties for a previously committed crime.
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CRIMINAL PROCEDURE CODE OF THE REPUBLIC OF KAZAKHSTAN

Article 7. Clarification of some concepts contained in this Code The concepts contained in this Code have, if there are no special instructions in the law, the following meaning:

24) other persons participating in the criminal process - the secretary of the court session, translator, witness, witness entitled to protection, understood, expert, specialist, bailiff, mediator.

Article 85. Mediator

1. A mediator is an independent individual engaged by the parties to conduct mediation in accordance with the requirements of the Law.
2. The Mediator has the right to:
 - 1) to get acquainted with the information provided to the parties of mediation by the body conducting the criminal process;
 - 2) get acquainted with the data on the participants of the criminal process who are parties to mediation;
 - 3) to meet with participants in the criminal process who are parties to mediation in private and confidentially without limiting the number and duration of meetings in accordance with the Criminal Procedure Law;
 - 4) assist the parties in concluding an agreement to achieve reconciliation through mediation.

3. The Mediator is obliged to:

- 1) when conducting mediation, act only with the consent of the mediation parties;
 - 2) before the mediation begins, explain to the parties of the mediation its objectives, as well as their rights and obligations;
 - 3) not to disclose information that became known to him in connection with the mediation procedure.
4. The mediator has the right, with the consent of the parties, to carry out the mediation procedure from the moment of registration of the application and the report of a criminal offense and at subsequent stages of the criminal process until the verdict enters into force.

Article 23. Implementation of legal proceedings on the basis of adversarial and equal rights of the parties

9. A public prosecutor and a private prosecutor may prosecute a certain person or, in cases provided for by law, refuse to prosecute. The suspect, the accused, the defendant can freely deny their guilt or plead guilty, reconcile with the victim, conclude a procedural agreement, an agreement to achieve reconciliation through mediation. The civil plaintiff has the right to withdraw from the claim or conclude a settlement agreement with the civil defendant. The civil defendant has the right to recognize the claim or conclude a settlement agreement with the civil plaintiff.

Article 64. Suspect

9. The suspect has the right to:

- 15) reconcile with the victim in cases provided for by law, including through mediation.

Article 65. The accused has the right to enjoy the rights provided for in part nine of Article 64 of this Code.

CIVIL PROCEDURE CODE OF THE REPUBLIC OF KAZAKHSTAN

Article 24. Settlement of a dispute (conflict) by mediation or participatory procedure. Submission of a dispute to arbitration A dispute (conflict) under the jurisdiction of the court arising from civil law relations, by written agreement of the parties, may be resolved by mediation, participatory procedure or submitted to arbitration when it is not prohibited by law.

Article 48. Change of the basis or subject of the claim, rejection of the claim, recognition of the claim, settlement agreement, agreement on the settlement of a dispute (conflict) by mediation or agreement on the settlement of a dispute by way of a participatory procedure

1. The plaintiff has the right to change the basis or subject of the claim, to increase or decrease the size of the claims or to abandon the claim, the defendant has the right to recognize the claim, the parties can end the case with a settlement agreement or an agreement on the settlement of a dispute (conflict) by mediation or an agreement on the settlement of a dispute by way of a participatory procedure according to the rules provided for in Articles 169, 170, 171 and Chapter 17 of this Code.

2. The court has no right to change the subject or the basis of the claim on its own initiative. The court does not accept the plaintiff's rejection of the claim, the recognition of the claim by the defendant and does not approve a settlement agreement of the parties or an agreement of the parties on the settlement of a dispute (conflict) by mediation or an agreement on the settlement of a dispute by way of a participatory procedure if these actions contradict the law or violate someone's rights, freedoms and legitimate interests.

Article 135. Requirements for which a court order is issued

A court order is issued according to the requirements:

3) on the execution of agreements on the settlement of disputes (conflicts) by mediation, concluded by way of pre-trial settlement in cases established by law or provided for by the contract;

Article 165. Actions of the judge to prepare the case for trial

In order to prepare the case for trial, taking into account the circumstances of the case, the judge performs the following actions:

5) explains to the parties the right to resolve the dispute by an amicable agreement, an agreement on the settlement of a dispute (conflict) by mediation or an agreement on the settlement of a dispute by a participatory procedure, or to apply for dispute resolution to arbitration and their legal consequences;

Article 169. Changing the subject or the basis of the claim, increasing or decreasing the claims

1. The plaintiff has the right to change the basis or subject of the claim, to increase or decrease the size of the claims by submitting a written application before the end of the preparation of the case for trial or before the removal of the court to the advisory room in the absence of the need for additional procedural actions.

A change in the basis or subject of the claim, an increase or decrease in the amount of claims may be declared after compliance with the pre-trial procedure for dispute settlement, if such an order is established by law or provided for by the contract.

2. Simultaneous or in any sequence change of the subject and the basis of the claim means the presentation of a new claim by the plaintiff and the refusal of the plaintiff from the previously filed claim, which entails the termination of proceedings on the case on the previously filed statement of claim. Simultaneous or in any sequence change of the subject and the basis of the claim is allowed in case of conclusion of an agreement on settlement of the dispute (conflict) by mediation.

3. The court has no right to change the subject or the basis of the claim on its own initiative.

Article 174. Reconciliation of the parties

1. The Court shall take measures to reconcile the parties, assist them in settling the dispute at all stages of the process.

2. The parties may settle the dispute in full or in part by concluding a settlement agreement, an agreement on the settlement of a dispute (conflict) by mediation or an agreement on the settlement of a dispute by way of a participatory procedure or using other methods in accordance with the procedure established by this Code.

3. A petition for the settlement of a dispute with the use of conciliation procedures may be filed in any case of claim proceedings, except for cases arising from public relations, unless otherwise provided by this Code or the law.

Article 179. Settlement of a dispute (conflict) by mediation

1. The parties have the right, before the court is removed to the advisory room in the courts of the first, appellate, cassation instances, to file a petition for the settlement of a dispute (conflict) by mediation.

The petition of the parties for the settlement of the dispute (conflict) by mediation may be filed in the court of cassation instance, if this does not require additional procedural actions and suspension of the case. Simultaneously with the petition in the court of cassation instance, the parties must submit an agreement on the settlement of the dispute (conflict) by mediation.

2. When applying for mediation by a mediator and submitting to the courts of the first and appellate instances of the contract concluded by the parties with the mediator, the proceedings in the case shall be suspended in accordance with subparagraph 7) of Article 272 of this Code for a period not exceeding one month.

3. When applying for mediation by a judge of the first or appellate instance, the court has the right to suspend the proceedings in accordance with subparagraph 7) of Article 273 of this Code for a period not exceeding ten working days.

4. For mediation in the court of first instance, the case is transferred to another judge. At the request of the parties, mediation may be conducted by the judge in whose proceedings the case is.

For mediation in the court of appeal, the case is transferred, as a rule, to one of the judges of the collegial composition of the court.

5. The judge who conducts the mediation appoints the day of the mediation and notifies the parties of the time and place of its holding. Mediation in court is conducted in accordance with the Law of the Republic of Kazakhstan "On Mediation" and with the features established by this Code.

At the request of the parties, the court has the right to postpone the mediation procedure within the time limit established by part three of this article and to summon other persons for mediation if their participation will contribute to the settlement of the dispute (conflict).

6. The protocol of mediation is not kept in court.

7. If an agreement on the settlement of a dispute (conflict) by mediation is concluded at the stage of execution of a judicial act, it is submitted for approval to the court of first instance at the place of execution of the judicial act or to the court that adopted the said judicial act.

Article 180. Agreement on the settlement of a dispute (conflict) by mediation and its execution

1. The judge (composition of the court) in whose proceedings the case is, verifies the content of the agreement on the settlement of the dispute (conflict) by mediation and issues a ruling on its approval and termination of proceedings in the case.
2. The agreement on the settlement of a dispute (conflict) by mediation, the determination on the approval of this agreement must comply with the requirements of the Law of the Republic of Kazakhstan "On Mediation" and Articles 176, 177 of this Code.
3. If the parties have not reached an agreement by way of mediation or the terms of the agreement have not been approved by the court, the proceedings are conducted in a general manner.
4. The execution of an agreement on the settlement of a dispute (conflict) by mediation, approved by the court, is carried out according to the rules for the execution of a settlement agreement established by Article 178 of this Code.

Article 246. Postponement and installment of execution of a court decision, change of the method and procedure for its execution, approval of a settlement agreement or agreement on settlement of a dispute (conflict) by mediation

1. The court that issued the decision or court order in the case, as well as the court at the place of execution of the decision, may, at the request of the bailiff and (or) at the request of the parties in enforcement proceedings, change the method or procedure for its execution, at the request of the parties in enforcement proceedings, postpone or installment the execution of the court decision, if circumstances arise that make the commission executive actions are difficult or impossible.
2. Upon the application of the parties to the enforcement proceedings, the court has the right to approve a settlement agreement concluded between them or an agreement on the settlement of a dispute (conflict) by mediation.
3. The petition of the state bailiff or the statement of the parties in the enforcement proceedings, as well as the settlement agreement concluded between them or the agreement on the settlement of the dispute (conflict) by way of mediation, shall be considered at the court session. The persons participating in the case are notified of the time and place of the meeting, but their non-appearance is not an obstacle to the resolution of the petition or application.

The court considers an application, a petition for postponement and installment of execution of a court decision, a change in the method and procedure for its execution, approval of a settlement agreement or an agreement on settlement of a dispute (conflict)

by mediation within ten working days from the date of receipt of the application to the court.

4. Private complaints may be filed against the court rulings specified in part three of this Article, petitions may be brought by the prosecutor:

on postponement, installment of execution of a court decision, on changing the method and procedure for its execution in accordance with the procedure established by part three of Article 238 of this Code;

on the approval of a settlement agreement, an agreement on the settlement of a dispute (conflict) by mediation in accordance with part seven of Article 177 of this Code.

Article 272. The court's obligation to suspend the proceedings

1. The court is obliged to suspend the proceedings in the following cases:

7) conclusion by the parties of a mediation agreement with the mediator. If the mediation period is extended, the parties must inform the court about it by a joint written notification;

Article 273. The right of the court to suspend the proceedings

The court may, at the request of the persons participating in the case, or on its own initiative, suspend the proceedings in the following cases::

7) conducting mediation in court or conducting a participatory procedure.

Article 277. Grounds for termination of proceedings in the case

The court shall terminate the proceedings in the case if:

2) there is a court decision that has entered into legal force, passed on a dispute between the same parties, on the same subject and on the same grounds, or a court ruling on the termination of proceedings in connection with the plaintiff's rejection of the claim or approval of a settlement agreement of the parties, an agreement of the parties to settle the dispute (conflict) by mediation, agreements on dispute settlement in the order of the participatory procedure;

6) the parties have concluded an agreement on the settlement of the dispute (conflict) by way of mediation, an agreement on the settlement of the dispute by way of a participatory procedure and they are approved by the court.

Article 410. Voluntary settlement of the dispute by the parties in the court of appeal

1. The plaintiff's rejection of the claim, the settlement agreement of the parties, the agreement of the parties on the settlement of the dispute (conflict) by mediation or the agreement on the settlement of the dispute by the participatory procedure, made after the filing of the appeal, must be expressed in statements addressed to the court of appeal.
2. The court of appeal shall consider applications on the issues specified in the first part of this Article in the manner provided for in Article 170 and Chapter 17 of this Code.
3. In case of acceptance of the refusal of the claim, the court of appeal instance cancels the court's decision and terminates the proceedings on the grounds established by subparagraph 4) of Article 277 of this Code.

In case of approval of a settlement agreement, an agreement of the parties on the settlement of a dispute (conflict) by mediation or an agreement on the settlement of a dispute by way of a participatory procedure, the court of appeal shall cancel the court's decision and terminate the proceedings on the grounds established by subparagraphs 5), 6) of Article 277 of this Code.

4. If the court of appeal does not accept the plaintiff's refusal from the claim, does not approve a settlement agreement, an agreement of the parties on the settlement of a dispute (conflict) by mediation or an agreement on the settlement of a dispute by way of a participatory procedure, the appeal is considered on its merits.

Article 434. Judicial acts subject to cassation review

1. Judicial acts of local and other courts that have entered into legal force, in case of compliance with the appellate procedure for their appeal, as well as judicial acts of the specialized judicial board of the Supreme Court of the Republic of Kazakhstan, may be reviewed in cassation by the Supreme Court of the Republic of Kazakhstan.
2. Judicial acts on cases are not subject to review in the cassation procedure:
 - 1) considered in the simplified procedure provided for in Chapters 12 and 13 of this Code;
 - 2) a completed settlement agreement, an agreement on the settlement of a dispute (conflict) by way of mediation or an agreement on the settlement of a dispute by way of a participatory procedure;

Article 447. Settlement agreement, agreement on settlement of dispute (conflict) by mediation and agreement on settlement of dispute by participatory procedure

1. A settlement agreement of the parties, an agreement of the parties on the settlement of a dispute (conflict) by way of mediation or an agreement on the settlement of a dispute by

way of a participatory procedure, made after filing a petition, making a submission or protest, must be submitted to the court of cassation instance in writing.

An agreement of the parties on the settlement of a dispute (conflict) by mediation or an agreement on the settlement of a dispute by way of a participatory procedure is accepted by the court in accordance with the rules of Articles 179 and 181 of this Code.

At the court session, before the approval of a settlement agreement of the parties, an agreement of the parties on the settlement of a dispute (conflict) by mediation or an agreement on the settlement of a dispute by way of a participatory procedure, the court explains to the parties the consequences of their procedural actions.

2. When approving a settlement agreement of the parties, an agreement of the parties on the settlement of a dispute (conflict) by way of mediation or an agreement on the settlement of a dispute by way of a participatory procedure, the court of cassation instance cancels judicial acts and terminates proceedings on the case.

Article 451. Powers of the court of cassation instance

1. Based on the results of consideration of the petition, submission, protest, the court of cassation instance issues a resolution.

2. The court of cassation instance in the advisory room makes one of the following decisions:

6) cancels the decision, resolution and ruling of the courts of the first or appellate instance in full or in part and terminates the proceedings on the grounds provided for in Article 277 of this Code in connection with the approval of a settlement agreement, an agreement on the settlement of a dispute (conflict) by mediation or an agreement on the settlement of a dispute by a participatory procedure, or leaves a statement without consideration on the grounds provided for in the subparagraphs 2), 3), 4), 5), 9) and 10) Articles 279 of this Code;

SIMPLIFIED (WRITTEN) PRODUCTION

Article 144. Procedure for simplified (written) proceedings

1. Cases in the order of simplified (written) proceedings are considered by the court according to the rules of Chapter 14 of this Code with the features established by this chapter.
2. Cases in the order of simplified (written) proceedings are considered by a judge within one month from the date of acceptance of the application. The term of consideration of the case in the order of simplified (written) proceedings is not subject to extension.
3. The court issues a ruling on the consideration of the case according to the rules of claim proceedings in a general manner, if:
 - 1) the party has filed a petition about this;
 - 2) the petition of a third person to enter into the case has been granted;
 - 3) a counterclaim has been accepted;
 - 4) a judicial act adopted in this case may violate the rights and legitimate interests of other persons;
 - 5) it is necessary to conduct an inspection and examination of evidence at the place of their location, appoint an expert examination or hear witness testimony;
 - 6) it is necessary to clarify additional circumstances or investigate additional evidence.
4. In the ruling on the consideration of the case according to the rules of the claim proceedings, the actions to be performed by the persons participating in the case and the timing of these actions are specified in the general procedure. The case must be considered within the time limits established by this Code for cases of the appropriate category. The term of consideration of the case is calculated from the date of the initial acceptance of the statement of claim.
5. If several claims are made at the same time, of which one or more does not fall under the list specified in Article 145 of this Code, and the court does not separate these claims into separate proceedings, they are considered in accordance with the procedure established by Chapter 14 of this Code.

Article 145.

Cases considered in the order of simplified (written) proceedings

1. In the order of simplified (written) proceedings, the cases are subject to consideration:
 - 1) on claims for the recovery of money, if the price of the claim does not exceed seven hundred monthly calculation indices for legal entities, for individual entrepreneurs, citizens - two hundred monthly calculation indices;
 - 2) regardless of the price of the claim for statements of claim based on documents submitted by the plaintiff establishing the monetary obligations of the defendant and (or) on documents confirming the debt under the contract;
 - 3) - 12) are excluded in accordance with the Law of the Republic of Kazakhstan dated 21.01.19 No. 217-VI (see old ed.)
2. When the claims listed in the first part of this article are presented, without indicating that they are considered in simplified (written) proceedings, they are considered according to the rules of this chapter.

Article 146. Features of consideration of cases in the order of simplified (written) proceedings

1. The statement of claim must comply in form and content with the requirements of Articles 148 and 149 of this Code.
2. The court issues a ruling on the acceptance of the statement of claim for production, in which it indicates the consideration of the case in the order of simplified (written) production.
3. The court notifies the parties, sets a deadline within fifteen working days for the respondent to submit a response (objection) to the statement of claim with the attachment of documents and evidence that substantiates it. A document confirming the sending of a copy to the plaintiff is attached to the withdrawal (objection).
4. The withdrawal (objection), evidence and other documents received by the court after the expiration of the time period established by the court are accepted if the party justifies the impossibility of their submission within the time period established by the court and they were received before the court's decision.
5. The court shall consider the case in the order of simplified (written) proceedings without summoning the parties after the expiration of the time limits established by the court for the submission of a recall, evidence and other documents.
6. The court examines the explanations, objections and (or) arguments set out in the documents submitted by the parties and makes a decision.
7. When considering a case in the order of simplified (written) proceedings, the rules provided for in Chapter 26 of this Code and Article 198 of this Code shall not apply.

Article 147. Decision on the case considered in the order of simplified (written) proceedings

1. In a case considered in the order of simplified (written) proceedings, a brief decision is made, which must comply with the requirements established by Chapter 19 of this Code. Copies of the court decision are sent to the parties using means of communication that ensure the recording of its receipt, or are issued no later than five working days from the date of the final decision.
 2. The defendant has the right to file an application for cancellation of this decision with the court that made the decision in the order of simplified (written) proceedings within five working days from the date of receipt of a copy of the court decision. The application is filed if the defendant was not properly notified of the receipt of the statement of claim and its consideration in simplified (written) proceedings and was unable to provide a review, as well as evidence that may affect the content of the decision.
 3. The application for cancellation of the decision is considered according to the rules established by Chapter 21 of this Code, taking into account the requirements provided for in part two of this Article.
 4. An appeal may be filed against the decision, an appeal petition may be brought by the prosecutor after the deadline for filing an application for the cancellation of this decision has expired, and if the application is filed, within a month after the court has issued a ruling on the refusal to satisfy this application.
 5. In the order of simplified (written) proceedings, the proceedings on the case may be terminated, the application left without consideration on the grounds established by Articles 277, 279 of this Code, according to the documents submitted by the parties without summoning the parties.
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CODE OF THE REPUBLIC OF KAZAKHSTAN ON ADMINISTRATIVE OFFENCES

Article 64. Exemption from administrative liability in connection with the reconciliation of the parties

1. Cases of administrative offenses provided for in Articles 73, 73-1, 73-2, 79 (part one), 146, 185, 186, 220, 229 (part two) of this Code, are initiated not otherwise than at the request of the victim and are subject to termination for reconciliation with the person who committed an administrative offense.

The article was supplemented by Part 1-1 in accordance with the Law of the Republic of Kazakhstan dated 27.12.19 No. 292-VI.

1-1. Persons who have committed administrative offences for the first time under Articles 73, 73-1 or 73-2 of this Code may be released from administrative liability by the court if they have reconciled with the victims, applicants, including through mediation, and have made amends for the damage caused.

2. Reconciliation is carried out on the basis of a written agreement signed by the victim and the person who committed an administrative offense.

Article 73. Illegal actions in the sphere of family and household relations

Part 1 was amended in accordance with the Law of the Republic of Kazakhstan dated 27.12.19 No. 292-VI.

1. Obscene language, insulting harassment, humiliation, damage to household items and other actions expressing disrespect for persons who are in family and household relations with the offender, disturbing their peace of mind, committed in an individual residential building, apartment or other dwelling, if these actions do not contain signs of a criminally punishable act,

entail a warning or administrative arrest for up to five days.

2. The actions provided for in the first part of this Article, committed repeatedly within a year after the imposition of an administrative penalty,

entail administrative arrest for up to ten days.

3. The actions provided for in Part two of this Article, committed by persons to whom administrative arrest in accordance with part two of Article 50 of this Code does not apply, entail a fine in the amount of five monthly calculation indices.

Note. For the purposes of this Code, family and household relations are understood as relations between spouses, former spouses, persons living or living together, close relatives, persons having a common child (children).

Article 73-1. Intentional infliction of minor harm to health

1. Intentional infliction of minor harm to health, resulting in a short-term health disorder or minor permanent loss of general working capacity, -

entails a fine in the amount of fifteen monthly calculation indices or administrative arrest for up to fifteen days.

The article is supplemented by Part 1-1 in accordance with the Law of the Republic of Kazakhstan dated December 27, 19, No. 292-VI.

1-1. The actions provided for in part one of this Article committed against a person who is in family and household relations with the offender -

entail a warning or administrative arrest for up to fifteen days.

Paragraph 2 was amended in accordance with the Law of the Republic of Kazakhstan dated 27.12.19 No. 292-VI.

2. Actions provided for in parts one and (or) 1-1 of this Article, committed repeatedly within a year after the imposition of an administrative penalty, -

entail administrative arrest for up to twenty days.

3. The actions provided for in Part two of this Article, committed by persons to whom administrative arrest in accordance with part two of Article 50 of this Code does not apply, entail a fine in the amount of forty monthly calculation indices.

Article 73-2. Beatings 1. The infliction of beatings or the commission of other violent acts that caused physical pain, but did not cause minor harm to health, -

entails a fine in the amount of ten monthly calculation indices or administrative arrest for up to ten days.

The article is supplemented by Part 1-1 in accordance with the Law of the Republic of Kazakhstan dated December 27, 19, No. 292-VI.

1-1. The actions provided for in part one of this Article committed against a person who is in family and household relations with the offender -

entail a warning or administrative arrest for up to ten days.

Paragraph 2 was amended in accordance with the Law of the Republic of Kazakhstan dated December 27, 19, No. 292-VI.

2. Actions provided for in parts one and (or) 1-1 of this Article, committed repeatedly within a year after the imposition of an administrative penalty, -

entail administrative arrest for up to fifteen days.

3. The actions provided for in Part two of this Article, committed by persons to whom administrative arrest in accordance with part two of Article 50 of this Code does not apply, entail a fine in the amount of thirty monthly calculation indices.

Article 50. Administrative arrest

1. Administrative arrest is established for a period of up to thirty days, and for violation of the requirements of the state of emergency - up to forty-five days. Administrative arrest is appointed by a judge in exceptional cases within the limits provided for in the articles of the Special Part of this section.

2. Administrative arrest may not be applied to pregnant women and women with children under the age of fourteen, persons under the age of eighteen, disabled persons of groups 1 and 2, as well as women over the age of fifty-eight, men over sixty-three and men raising children under the age of fourteen alone age.

3. The term of administrative detention is included in the term of administrative arrest.

THE CODE OF THE REPUBLIC OF KAZAKHSTAN "ON MARRIAGE (MATRIMONY) AND FAMILY"

Article 18. Consideration of disputes arising between spouses during the dissolution of marriage (matrimony)

Disputes concerning the division of common property, the payment of funds for the maintenance of an incapacitated spouse, as well as minor children arising between spouses during the dissolution of marriage (matrimony) are considered through mediation or in court.

Article 37. Division of the common property of spouses

1. The division of the common property of the spouses may be made both during the marriage (matrimony) and after its dissolution at the request of any of the spouses, as well as in the case of a creditor's claim for the division of the common property of the spouses for foreclosure on the share of one of the spouses in the common property of the spouses.
2. The common property of the spouses may be divided between the spouses by their agreement. The agreement on the division of the common property of the spouses must be notarized.
3. In the event of a dispute, the division of the common property of the spouses, as well as the determination of the spouses' shares in this property, shall be carried out by mediation or in court.

When dividing the common property of the spouses, the court, at the request of the spouses, taking into account the interests of the minor child, determines which property is to be transferred to each of the spouses. If one of the spouses is transferred property, the value of which exceeds the share due to him, the other spouse is awarded the appropriate monetary or other compensation.

4. Items purchased exclusively to meet the needs of minor children (clothing, shoes, school and sports supplies, musical instruments, a children's library and others) are not subject to division and are transferred without compensation to the spouse with whom the children live.

Contributions made by spouses at the expense of the spouses' common property in the name of their common minor children are considered to belong to these children and are not taken into account when dividing the spouses' common property.

5. In the case of the division of the common property of the spouses during the marriage (matrimony), that part of the common property of the spouses that was not divided, as well as the property acquired by the spouses during the marriage (matrimony) in the future, constitute their common joint property.

6. A three-year limitation period from the moment of dissolution of the marriage (matrimony) applies to the claims of spouses on the division of the common property of spouses whose marriage (matrimony) has been dissolved.

Article 73. Exercise of parental rights by a parent living separately from the child

1. A parent living separately from the child has the right to communicate with the child, participate in his upbringing and resolve issues of the child's education and other important issues for the child.

The parent with whom the child lives should not interfere with the communication of the child with another parent, if such communication does not harm the physical and mental health of the child, his moral development.

2. The place of residence and legal address of the child in case of separation of the parents shall be established by agreement of the parents.

In the absence of an agreement, the dispute between the parents is resolved by mediation or by a court with the participation of the body performing the functions of guardianship or guardianship, at the request of the parents based on the interests of the child and taking into account his opinion. At the same time, the court takes into account the attachment of the child to each of the parents, brothers and sisters, the age of the child, the moral and other personal qualities of the parents, the relationship existing between each of the parents and the child, the possibility of creating conditions for the child's development and upbringing (occupation, working hours of the parents, the financial and marital status of the parents and other similar conditions).

3. Parents have the right to conclude an agreement in writing on the procedure for exercising parental rights by a parent living separately from the child.

If the parents cannot come to an agreement, the dispute is resolved by the body performing the functions of guardianship or guardianship, and in case of disagreement with its decision - by mediation or by a court with the participation of this body and the parents of the child.

4. In case of non-execution of a court decision on the procedure for exercising parental rights, the guilty parent bears responsibility provided for by the laws of the Republic of Kazakhstan.

In case of malicious non-execution of a court decision, the court, at the request of a parent living separately from the child, may decide to transfer the child to him based on the interests of the child and taking into account the opinion of the child.

5. A parent living separately from a child has the right to receive information about their child from educational, medical and other organizations.

The provision of information may be refused only if there is a threat to the life and health of the child on the part of the parent. Refusal to provide information may be challenged in court.

Article 183. Procedure for amendments, additions and corrections of civil status records

1. Amendments, additions and corrections to the civil status records in the presence of a primary registration record, as well as sufficient grounds and in the absence of a dispute between interested parties shall be made by the registering authority. If there is a dispute between interested parties, the issues of making changes, additions and corrections to the civil status records are resolved through mediation or in court.

2. Applications for amendments, additions and corrections to the existing civil status records are submitted to the registration authority at the place of permanent residence of the applicant.

3. Citizens of the Republic of Kazakhstan permanently residing abroad, as well as foreigners and stateless persons who have registered acts of civil status with the registration authorities of the Republic of Kazakhstan, applications are submitted through the foreign institutions of the Republic of Kazakhstan to the registration authority at the place of storage of the primary record.

4. Amendments, additions and corrections to the existing civil status records shall be made by the registering authority at the location of the record. The refusal to make changes, additions and corrections to the civil status records may be appealed in court.