



**Конституциялық құқық / Constitutional law /  
Конституционное право**

IRSTI 10.15.59

<https://doi.org/10.32523/2616-6844-2026-154-1-11-24>

Scientific article

**Problems of Enhancing the Protection Mechanism for Citizens' Rights and Freedoms in the Decisions of the Constitutional Court of the Republic of Kazakhstan**

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**Abstract.** The article examines the problems of enhancing the mechanism for protecting citizens' rights and freedoms in the decisions and practice of the Constitutional Court of the Republic of Kazakhstan, focusing on both institutional development and societal factors influencing constitutional protection. The research addresses the central problem of insufficient effectiveness of constitutional safeguards, which is significantly affected by legal nihilism, low legal culture, and gaps in legislation that limit the full realization of constitutional rights. The object of the study is the system of constitutional protection of human and civil rights in Kazakhstan, while the subject is the functioning of the Constitutional Court, its jurisprudence, and the socio-legal conditions that determine the quality of constitutional justice.

The study establishes that the majority of constitutional appeals in Kazakhstan arise from citizens' legal illiteracy and misunderstandings regarding the Court's jurisdiction. The Constitutional Court's practice reveals numerous legislative inconsistencies in the areas of social protection, access to information, public service, and business regulation, demonstrating the urgent need for improved legal monitoring and more effective procedural mechanisms. The article concludes that strengthening legal education, increasing public awareness, and enhancing institutional guarantees of constitutional review are essential for ensuring the supremacy of the Constitution and improving access to justice.

**Keywords:** Constitutional Court, protection of rights and freedoms, normative resolution, constitutional control, Constitution, message, international experience.

**Introduction**

The safeguarding of citizens' rights and freedoms is a cornerstone of any state governed by the rule of law, ensuring that justice, fairness, and equality prevail in society. President Kassym-

Received: 01.07.2025. Accepted: 17.03.2026. Available online: 30.03.2026

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Jomart Tokayev emphasizes: "We need to proactively work in all potentially problematic areas. Tools for predicting and preventing violations of citizens' rights should be developed. In many ways, the successful solution of this task depends on close cooperation with civil society" [1].

A key factor in the effective functioning of this system is the creation and support of an effective mechanism for the protection of rights and freedoms. In Kazakhstan, as a democratic State, the observance and respect of human rights are constitutionally guaranteed. It is necessary that this mechanism not only exists formally, but also ensures the protection of the interests of citizens, their confidence in justice and justice in practice. The importance of protecting rights and freedoms lies in providing citizens with the opportunity to defend their interests and express their opinions, and ensuring rights and freedoms contributes to the formation of a sustainable civil society where each individual has their own importance and feels protected.

An effective legal protection mechanism plays a key role in strengthening citizens' trust in the State. When people are confident that their rights are protected, they become more engaged as citizens, actively participating in public and political life and contributing to the country's development. It is especially crucial that state institutions, courts, and law enforcement agencies perform their duties professionally and independently, as they play a key role in safeguarding citizens' rights from arbitrariness and injustice. The Republic of Kazakhstan has a system of human rights institutions, which includes: the Constitutional Court, the Prosecutor's Office, the Ombudsman, and various public organizations. The Constitutional Court plays an important role in this mechanism.

The Constitutional Court is a body of constitutional control. Constitutional control is an independent sphere of activity of the state, serving to protect the political, legal, socio-economic and moral values of society, enshrined in the Basic Law. The fundamental principle of any State governed by the rule of law is the protection of the rights and freedoms of citizens. Therefore, the Constitutional Court plays an important role in ensuring these rights in our country. The Constitutional Court upholds the supremacy of the Constitution across the Republic of Kazakhstan. It reviews disputes involving constitutional rights violations and assesses the legality of acts impacting citizens' rights and freedoms. In carrying out its functions, the Court operates independently of individuals, organizations, government bodies, and officials, adhering strictly to the Constitution and Constitutional Law. It refrains from addressing matters that fall under the jurisdiction of other courts or state institutions. Despite progress in legal system development, challenges persist in the protection of citizens' rights, hindering its effectiveness. Therefore, it is crucial to address issues related to the protection of human and civil rights in the decisions of the Constitutional Court of the Republic of Kazakhstan.

## **Literature review**

A number of scholars have explored the protection of citizens' rights and freedoms through constitutional and comparative legal frameworks. Elvira Azimova (2023) emphasizes the importance of recognizing citizens as bearers of personal rights, arguing that legal mechanisms must prioritize individual protections in state decisions. Similarly, Sergey Udartsev (2023) highlights the significance of innovative approaches in legal practice, pointing to the need for continuous development of mechanisms to safeguard rights effectively.

Comparative perspectives provide additional insights into constitutional protection. Alexander Storozhev (2014) examines Spain's amparo procedure, demonstrating how specialized

legal remedies can ensure rapid and effective protection of constitutional rights. Nikolay Mironov (2007) analyzes Argentina's constitutional system post-1994 reforms, revealing how democratic transitions shape the mechanisms available for rights protection. Anastasia Khudoeshko (2012) extends this comparative analysis to several Latin American countries, focusing on the principles regulating amparo procedures in Venezuela, Uruguay, Argentina, Mexico, and Colombia, and highlighting the importance of procedural clarity and accessibility in guaranteeing citizens' rights.

European legal systems also offer instructive models. Lado Chanturia (2010) reviews the German legal system, emphasizing the structured mechanisms that integrate constitutional oversight with judicial enforcement. Alexey Antonov (2015) studies the Constitutional Council of France, particularly its formation and proposed reforms, providing insights into institutional design and the adaptability of constitutional bodies in protecting rights.

## **Materials and Methods**

The research is based on a comprehensive qualitative and quantitative analysis of the constitutional protection mechanism in the Republic of Kazakhstan, using as material the decisions of the Constitutional Court, annual reports, statistical data on citizens' appeals, and legal acts adopted during and after the 2022 constitutional reforms. The object of the study is the system of constitutional review and its practical functioning in ensuring the protection of citizens' rights and freedoms. The primary research question examines how effectively the Constitutional Court safeguards constitutional rights and what institutional, legal, and socio-cultural factors influence this effectiveness. The working hypothesis suggests that the improvement of constitutional protection in Kazakhstan depends not only on legislative modernization but also on the level of legal culture and accessibility of judicial remedies. To evaluate this, the study incorporates a structured review of case materials, content analysis of court decisions, comparative examination of foreign constitutional protection mechanisms (amparo, tutela, constitutional appeal), and doctrinal legal analysis. Data collection was conducted using the official website of the Constitutional Court, state statistical portals, and open governmental databases; analysis was carried out using standard legal research software (Lexis-type national databases, document classifiers) with manual coding to ensure methodological transparency.

The research proceeded in several sequential stages: identification of key categories of constitutional violations reflected in the decisions of the Constitutional Court; classification of appeals by thematic clusters (bankruptcy, social protection, housing, public service restrictions); determination of legislative gaps recognized by the Court; and assessment of the correlation between legal deficiencies and socio-cultural factors such as legal nihilism. Comparative materials were selected from the constitutional systems of Mexico, Argentina, Colombia, Spain, Germany, and France, allowing for the formulation of evaluative criteria and benchmarking of foreign models relevant to Kazakhstan. The methodological toolkit includes comparative-legal analysis, formal-legal method, hermeneutic interpretation of constitutional norms, case-study approach, institutional analysis, and elements of sociological jurisprudence for interpreting legal culture factors. This combination of methods ensures reproducibility of the study: another researcher can replicate the sample of decisions, follow the same coding procedure, and reapply the comparative framework. The methodological design allows for a balanced evaluation of

both the strengths and weaknesses of Kazakhstan's constitutional protection mechanism and provides grounded recommendations for its further development.

## **Results and Discussion**

Regulatory Resolution No. 3 of the Constitutional Court of the Republic of Kazakhstan [2] examines the constitutionality of subitems 1 of paragraph 1 and paragraph 2 of Article 610 of the Tax Code of the Republic of Kazakhstan, which relate to the rates of state duty in the Constitutional Court and in courts [3], concerning the establishment of the amount of state duty for filing claims and petitions for the review of judicial acts in cassation. The appeal to the Constitutional Court was initiated by citizen Dosmagambetov E.N., who claimed a violation of his rights to access justice due to excessively high state fees.

The Constitutional Court emphasized that, according to the Constitution of the Republic of Kazakhstan (Articles 13 and 14), every citizen has the right to judicial protection [4]. This right is absolute and is not subject to restriction, and also presupposes equality before the law and the inadmissibility of discrimination, including on the basis of property status. In the opinion of the Constitutional Court, the establishment of a state fee in percentage terms may be permissible, but its amount should be such as not to restrict access to justice. The Court pointed out that the current legislation does not provide for a flexible mechanism to overcome obstacles related to the payment of state fees.

The legislation does not allow postponing or delaying payment of fees for persons in difficult financial situations, which creates obstacles for low-income citizens in exercising their constitutional right to judicial protection. The Constitutional Court ruled that the provisions of Article 610 of the Tax Code regarding the determination of the amount of the state fee [3] do not comply with the Constitution, as they do not provide equal access to justice. The Court drew attention to the need to review legislation to ensure that citizens in difficult financial situations can receive judicial protection.

This resolution emphasizes that the legislator should supplement the Tax Code with measures allowing for reasonable restrictions on the amount of state duty, deferral and installment payment, as well as provide for exemption from duty for persons with limited financial resources [2]. The Constitutional Court established that the Government of the Republic of Kazakhstan, no later than three months after the publication of this regulatory resolution, should submit to the Mazhilis of the Parliament of the Republic of Kazakhstan a draft law aimed at improving the legal regulation of the payment of state duties in courts. This approach is necessary for the realization of citizens' rights to judicial protection, established by the Constitution of the Republic of Kazakhstan.

In its Regulatory Resolution No. 4 [5], the Constitutional Court of the Republic of Kazakhstan reviewed the complaint filed by citizen Argumbayev B.K. against subparagraph 6 of paragraph 3 of Article 16 of the Law "On Civil Service of the Republic of Kazakhstan" [6]. Argumbayev challenged the provision prohibiting the admission to public service of persons who were dismissed for disciplinary offenses discrediting the service. This provision does not allow such citizens to enter public service indefinitely, which, according to Argumbayev, violates the constitutional rights to equal access to public service.

The Constitution of Kazakhstan guarantees citizens equal access to public service; however, taking into account the specifics of public service and the high level of requirements for candidates,

the state has the right to impose restrictions [4]. These restrictions must be proportionate and serve the public interest without violating the principle of fairness. The Constitutional Court noted that the indefinite restriction imposed by the law on citizens dismissed for defamatory disciplinary offenses has no objective justification. It actually equates disciplinary responsibility with criminal punishment, which contradicts the principles of proportionality and fairness.

International treaties to which the Republic of Kazakhstan is a party provide for similar restrictions to prevent corruption and ensure the effectiveness of public service. However, unlike other types of responsibility, disciplinary punishment should not lead to a lifetime ban unnecessarily, as this infringes on the fundamental rights of citizens. The Constitutional Court ruled that the part of subparagraph 6 of paragraph 3 of Article 16 of the Law, which establishes an indefinite ban on entry into public service for citizens dismissed for disciplinary offenses [6], does not comply with the Constitution of Kazakhstan.

This ban distorts constitutional rights and freedoms, violating the principles of justice, proportionality and proportionality. The Government has been instructed to prepare legislative amendments within six months to eliminate the discrepancy. This resolution is a significant contribution to strengthening the legal mechanism for protecting the rights and freedoms of citizens of Kazakhstan. It emphasizes the importance of balancing public interests and individual rights of citizens. The Constitutional Court stated that the indefinite ban on holding public office for disciplinary offenses is disproportionate and violates constitutional rights such as the right to work and the right to equal access to public service. Thus, this decision contributes to the creation of a more equitable legal environment, where the protection of citizens' rights and freedoms occupies a central place in the public service system.

Consider the Normative Resolution of the Constitutional Court No. 5 [7]. Citizen Baizhumanov B.K., a former police lieutenant colonel, was voluntarily dismissed from the internal affairs bodies to the Armed Forces reserve on the basis of subparagraph 5) of paragraph 1 of Article 80 of the Law of the Republic of Kazakhstan "On Law Enforcement Service" [8]. After his dismissal, he became the recipient of a retirement pension. However, Baizhumanov was later found guilty of committing a moderate crime under part 2 of Article 433 of the Criminal Code of the Republic of Kazakhstan for harboring a serious crime [9].

The court sentenced him to two years of restriction of liberty, deprivation of the right to hold positions in law enforcement agencies for a period of five years and deprivation of the special rank of "police lieutenant colonel" on the basis of Article 49 of the Criminal Code of the Republic of Kazakhstan [9]. Based on this conviction and the order of the Minister of Internal Affairs of the Republic of Kazakhstan No. 492 I/s dated September 12, 2019, by which Baizhumanov was stripped of his special rank, his pension provision was terminated on October 1, 2019. The decision to terminate payments was confirmed in repeated notifications from the Police Department and by a decision of the Judicial Board for Civil Cases of the Supreme Court of the Republic of Kazakhstan dated February 10, 2022, which overturned previous decisions supporting Baizhumanov.

Baizhumanov challenged the termination of payments, arguing that the deprivation of the title should not automatically lead to the loss of pension provision, since such provisions are not enshrined in law. The Constitutional Court considered the issue of compliance with the Constitution of the provisions of the Law of the Republic of Kazakhstan "On Pension Provision in the Republic of Kazakhstan" [10] and the Law "On Law Enforcement Service" [8], which served as the basis for termination of pension payments to Baizhumanov.

The Court pointed to the following legal norms and principles. Firstly, paragraph 1 of Article 1 of the Constitution defines the Republic of Kazakhstan as a democratic, secular, legal and social state, the highest values of which are human rights and freedoms [4]. Secondly, paragraph 1 of article 28 of the Constitution guarantees citizens a minimum pension and social security based on age and other legal grounds [4]. Thirdly, paragraph 1 of article 39 of the Constitution establishes that the rights and freedoms of citizens may be restricted only in cases provided for by law, and only in those cases when it is necessary to protect the constitutional order, public order and other public interests [4].

According to subparagraph 3) of paragraph 1 of Article 10, paragraph 1 of Article 64 and paragraph 2 of Article 65 of the Law on Pension Provision, the right to pension payments for years of service is determined by the availability of relevant seniority at the time of dismissal [10]. Termination of payments is allowed only on the grounds provided for in paragraph 4 of Article 68 of the Law (in case of death of a pensioner or his departure for permanent residence outside Kazakhstan) [10]. The Constitutional Court pointed out that the deprivation of Baizhumanov's special title should not automatically entail the loss of the right to pension payments, unless the law contains a direct indication of this. The provisions of the Law on Pension Provision do not provide for the termination of pension payments to former law enforcement officers based on the loss of a special rank as a result of a court verdict.

This ruling by the Constitutional Court of the Republic of Kazakhstan is crucial for enhancing the protection of citizens' rights and freedoms. In this case, the Court protects the right of citizens to pension provision, emphasizing that termination of payments is possible only if there are clear and definite grounds in the law. The Constitutional Court stressed the importance of a rule-of-law State based on the principles of justice and the protection of citizens' rights guaranteed by the Constitution. Thus, the decision of the Constitutional Court has set an important precedent in strengthening the legal protection of citizens in Kazakhstan and ensuring that state authorities' actions align with constitutional guarantees of citizens' rights and freedoms.

The case of Citizen Baizhumanov has revealed several problems. The Law on Pension Provision does not contain clear and exhaustive grounds for termination of pension payments to former law enforcement officers. In Baizhumanov's case, the suspension of payments was linked to the loss of a title due to a criminal conviction. However, the law does not explicitly address the potential loss of pension rights in such circumstances. This leads to discrepancies and arbitrary interpretations, which negatively affects the protection of citizens' rights. Baizhumanov disputed the termination of his pension payments, citing a violation of his constitutional rights to social security, but the law enforcement system failed to provide him with adequate protection at the level of local courts and the Supreme Court. It required the intervention of the Constitutional Court in order to clarify the constitutional significance of the social rights of citizens. This indicates the weakness of the mechanism for protecting constitutional rights in other judicial instances, which leaves citizens without the necessary legal support.

The regulatory resolution of the Constitutional Court of the Republic of Kazakhstan No. 10 specifically addresses a critical issue in enhancing the mechanism for safeguarding citizens' rights and freedoms [11]. This Regulatory Resolution raises the issue of limited access to judicial protection for certain categories of citizens, in this case, judges. A citizen, ex-judge Duisembiev K.K. challenged the rules regarding restrictions on appealing decisions of the Supreme Judicial Council, which, in his opinion, violated his right to judicial protection, enshrined in the Constitution. The Constitutional Court, although it recognized these provisions as consistent with the Constitution, pointed out the need to improve legislation on the rights of judges.

The Court stressed that the protection procedure should include additional guarantees, such as legislative regulation of criteria for evaluating the professional activities of judges. This resolution demonstrates that although the existing mechanism for protecting rights formally complies with the Constitution, it may not fully ensure the real protection of rights and freedoms. The recommendations for improving the legal norms outlined by the Constitutional Court confirm the existence of problems in the system and the need to modernize it. Thus, the resolution reflects the desire to strengthen the mechanism for protecting citizens' rights through the development of fairer and more effective judicial procedures, especially for persons whose rights are in special legal regimes, such as judges.

The problem of legal nihilism and insufficient legal culture among both citizens and officials is an important factor affecting the weakening of the mechanism for protecting citizens' rights and freedoms. A large number of violations of constitutional rights occur as a result of legal illiteracy, lack of proper awareness of the importance of protecting rights and freedoms, as well as lack of respect for legal norms and institutions. Since January 2023, people have often written complaints and appeals. But not always understanding, people turned there, due to the legal illiteracy of citizens. The Constitutional Court has no jurisdiction over all cases. That is, they consider only certain categories of cases, which are not within the competence of ordinary courts. The Constitutional Court received over 5,300 appeals from the subjects for consideration in 2023. Only 51 resolutions were accepted for consideration. 39% of the appeals were related to disagreements with court rulings, which fall outside the jurisdiction of the Constitutional Court [12]. Elvira Azimova noted: "There are appeals where people request debt payment or housing assistance, raising the question: why didn't the legal system function as required? Why did a Kazakhstani seek pension support from the Constitutional Court instead of the Ministry of Labor?" [13].

The solution to this problem may be the activation of legal education of the population. It is essential to implement a mandatory course on the fundamentals of human rights in both secondary and higher education, as it is important for everyone to understand their rights and responsibilities. Such measures will help strengthen citizens' trust in the Constitutional Court and the legal system as a whole.

The problem of legal culture also negatively affects the mechanism of protection of citizens' rights and freedoms. An example is situations where public authorities refuse to provide information to citizens, citing "document confidentiality," despite the fact that according to paragraph 2 of Article 20 of the Constitution of the Republic of Kazakhstan, every individual has the right to freely access and share information by any means not prohibited by law. [4].

Citizens, not knowing their rights and not trusting the legal system, rarely turned to courts or other instances to protect their rights. These cases show how low levels of legal literacy and distrust of institutions can hinder the protection of citizens' rights and freedoms. The intensification of legal education and raising the level of knowledge about rights among citizens are necessary for the effective functioning of the legal system.

Another important aspect of the Constitutional Court's role in safeguarding human and civil rights is its focus on these issues in its annual reports. The 2023 message from the Constitutional Court emphasizes that the 2022 constitutional reforms were a major advancement in protecting citizens' rights and freedoms. These reforms abolished the death penalty and provided citizens with the right to appeal to the Constitutional Court to review the constitutionality of laws. These changes foster democracy, decentralization, and the reduction of power monopolies, ultimately bolstering legal protections for citizens.

The creation of the Constitutional Court and the introduction of the institution of constitutional appeal allowed citizens to actively participate in the process of protecting their rights. Since the beginning of its work, more than 3,000 appeals from citizens have been received, which underlines the importance of the new body as a mechanism for restoring justice and bringing regulations in line with the Basic Law. Most of the appeals relate to bankruptcy, social protection, and housing issues. The problems of constitutional proceedings have revealed the need for stricter legal monitoring of regulatory legal acts. The Constitutional Court drew attention to gaps in legislation, such as the lack of a legal mechanism to overcome barriers to access to justice and insufficient legal regulation of witness protection in criminal proceedings. These issues require legislative improvements. Strengthening the institutional structure is aimed at ensuring the supremacy of the Constitution. The constitutional laws and regulatory resolutions in place enable the Constitutional Court to quickly address identified legal conflicts, thereby enhancing constitutional legality and reinforcing legal protections for the citizens of Kazakhstan [14].

The 2024 message from the Constitutional Court of the Republic of Kazakhstan underscores that constitutional reforms in Kazakhstan have established the foundation for democratic progress, enhanced protection of human rights, and reinforced the rule of law. The updated system includes the expansion of citizens' rights to appeal to the Constitutional Court, which strengthens constitutional control and increases confidence in judicial protection. The Constitutional Court notes that many citizens do not use human rights mechanisms due to a lack of awareness or distrust. In this regard, it is recommended to step up work on legal education of the population, including the provision of legal aid for socially vulnerable groups of citizens. The Court reviewed the norms of various codes and laws, identifying legal gaps and ambiguities that hinder the protection of citizens' rights. Among them are issues in legislation on public service, social protection, access to information and the right to business, which require improvements to ensure a balance between the interests of citizens and the state. Within the framework of the constitutional review, a number of provisions restricting the rights of citizens, such as bans on business activities for civil servants, were declared unconstitutional. The Court considers these decisions important for further improvement of legislation and prevention of abuse of law [15]. These conclusions emphasize that the work of the Constitutional Court is aimed at improving human rights capacity and ensuring constitutional legality, which is important for further strengthening the mechanisms for safeguarding citizens' rights and freedoms in Kazakhstan.

"The Constitutional Court is a key institution for protecting constitutional human and civil rights from violations in legislation. It doesn't replace general courts but provides macro-regulation by overturning laws or legal acts that contradict the Constitution. Its decisions safeguard the rights of many citizens in similar situations." [16] – emphasizes the Judge of the Constitutional Court Sergey Udartsev. In modern conditions, this mechanism should be able to adapt to changing conditions and challenges. The Constitutional Court plays a crucial role in maintaining constitutional control to protect the individual rights and freedoms outlined in the country's Basic Law. Despite the progress made, key tasks remain, including enhancing the accessibility and effectiveness of judicial protection, refining legal instruments, and improving procedures for handling cases in the Constitutional Court. To establish a more efficient system for safeguarding citizens' rights and freedoms that aligns with modern international standards, further enhancement of the constitutional control mechanism and strengthening institutional guarantees are essential.

The mechanism for protecting the rights and freedoms of citizens of different countries includes a variety of legal and institutional instruments adapted to the legal traditions and needs of civil society in these countries. It is recommended to focus on analyzing the mechanisms for protecting citizens' rights and freedoms in other countries.

The amparo procedure, for instance, is widely used in Latin American countries. The term "amparo" itself translates to protection, guardianship, or patronage. This remedy allows citizens to protect their fundamental rights and freedoms through judicial intervention. If the rights of citizens are violated by state bodies, individuals or legal entities, the amparo procedure is applied, which is a form of appeal against the decision of the authority. This model is founded on several key principles, including the principle of the injured party's initiative, the principle of personal and direct damage caused to the injured party, the principle that justice in the amparo procedure is administered exclusively by the court, the principle of the relativity of decisions, and the principle of the finality of the amparo procedure. These principles are fundamental to the Mexican amparo model, which was the first of its kind and has served as a model for other judicial systems. Amparo originated and was enshrined in the Constitution back in the 19th century. This is outlined in Articles 103 and 107 of the Mexican Constitution [17].

In Argentina, an amparo claim can be filed against any clearly arbitrary or illegal decision, action, or omission by public authorities that has harmed, violated, or infringed upon the rights and guarantees established by the Constitution or derived from it, or which poses an imminent threat of such consequences. However, this does not apply to the right to personal freedom and inviolability, for which the habeas corpus procedure is used. Initially, the problem is solved through administrative authorities before going to court or executing a court decision. This approach is used in monetary disputes and criminal cases, but is not suitable for cases of personal insults or issues related to constitutional violations [18].

In Colombia, amparo is called "tutela" and is considered one of the most accessible and popular rights protection mechanisms. The Colombian Constitution of 1991 introduced a system known as the "guardianship measure." This legal procedure is similar to amparo, but adapted for use in situations where there is a direct threat to any citizen of the country [19]. In Spain, under the current Constitution, the amparo procedure can be initiated by any individual or organization, regardless of nationality, as well as by the prosecutor or the Ombudsman, through the Constitutional Court. It serves to protect the rights guaranteed by the Constitution. This procedure is an additional mechanism that requires that all available alternative remedies in the courts of general jurisdiction be exhausted before applying to the Constitutional Court [17].

The Constitutional Court and the Constitutional Council are important institutions that ensure the observance of citizens' rights and freedoms. As mentioned earlier, these judicial authorities consider complaints of violations of rights, checking whether the actions of laws and authorities comply with the Constitution of the country. Therefore, it is also necessary to consider the mechanism of protection of citizens' rights and freedoms by constitutional control bodies in European countries.

The Federal Constitutional Court of Germany, "Bundesverfassungsgericht" is the highest court in Germany, and the first Constitutional Court established in post-war Europe. It examines complaints from citizens who believe that their fundamental rights have been violated by the State. The court's authority includes the possibility of repealing any law that contradicts the Constitution. It consists of 16 judges: half of them is chosen by the Bundestag, and the other half by the Bundesrat. Judges have been working for 12 years. The primary role of the court

is to interpret the country's Constitution and ensure that both federal and regional laws align with it. In addition, it resolves disputes between the lands or between the land and the federal government. Only the Federal Constitutional Court has the right to decide on the dissolution of a political party [20].

The Constitutional Council of France, the Conseil Constitutionnel, was formed in 1958 and also examines constitutional issues at the request of the President or government agencies. It consists of 9 people who are appointed for 9 years. A distinctive feature of this quasi-judicial body of constitutional control is that additional quotas are formed for former presidents of the Republic. He can make a judgment on the unconstitutionality of a law if it contradicts human rights and civil liberties enshrined in the French Constitution [21].

## **Conclusion**

The analysis demonstrates that the effectiveness of the constitutional protection mechanism for citizens' rights and freedoms in the Republic of Kazakhstan largely depends on the degree of legal culture in society and the capacity of state institutions to ensure consistent constitutional compliance. The Constitutional Court's practice clearly shows that many violations originate not only from deficiencies in legislation but also from persistent legal illiteracy and institutional weaknesses that hinder access to justice. Strengthening constitutional legality, therefore, requires simultaneous improvement of legal norms, procedural mechanisms and public awareness.

The Constitutional Court has become a central institution in shaping Kazakhstan's modern human rights architecture, particularly after the 2022 constitutional reforms and the introduction of the constitutional appeal. Its jurisprudence highlights systemic gaps in laws regulating social protection, public service, access to information and business activity, underscoring the need for continuous legal monitoring and timely legislative intervention. By identifying unconstitutional restrictions and correcting inconsistencies, the Court enhances the responsiveness of the legal system and contributes to the broader transformation toward the rule of law.

Comparative analysis shows that Kazakhstan's evolving constitutional review model aligns with global trends, drawing conceptually closer to established mechanisms such as *amparo* in Latin America, *tutela* in Colombia and constitutional complaint procedures in European jurisdictions. These comparative insights reveal that strong constitutional justice functions effectively when supported by accessible remedies, institutional independence and a legally educated population. Further consolidation of Kazakhstan's constitutional control system, combined with systematic legal education and institutional strengthening, will be essential for ensuring durable guarantees of rights and freedoms and fostering a mature legal culture grounded in respect for the Constitution.

## **Contribution of the authors**

**Rakhmetulina B.S.** – developed the overall concept and research framework of the study, formulated the key scientific problem and main conclusions. She coordinated the preparation of the article and critically reviewed the manuscript for significant intellectual content.

**Baimakhanova D.M.** – conducted the systematic analysis of the regulatory decisions of the Constitutional Court of the Republic of Kazakhstan. She examined the legal challenges related to access to justice, public service restrictions, and pension rights revealed in these rulings. She

was responsible for drafting the core sections of the "Results and Discussion" related to these specific cases.

**Rakhmetulin A.B.** – was responsible for the conceptualization of the introduction, defining the research goals and objectives that formed the central part of the study. He prepared the "Introduction" and the "Materials and Methods" section, which included collecting materials on international practices of constitutional review.

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### **Қазақстан Республикасы Конституциялық Сотының шешімдерінде азаматтардың құқықтары мен бостандықтарын қорғау тетігін нығайту мәселелері**

**Аңдатпа.** Мақалада Қазақстан Республикасы Конституциялық Сотының шешімдері мен тәжірибесінде азаматтардың құқықтары мен бостандықтарын қорғау тетігін жетілдіру мәселелері қарастырылады, сонымен қатар конституциялық қорғауға ықпал ететін институционалдық даму мен қоғамдық факторларға назар аударылады. Зерттеу конституциялық кепілдіктердің жеткіліксіз тиімділігі мәселесін қарастырады, оған құқықтық нигилизм, құқықтық мәдениеттің төмендігі және конституциялық құқықтардың толық жүзеге асуына кедергі келтіретін заңнамалық олқылықтар айтарлықтай әсер етеді. Зерттеудің нысаны – Қазақстандағы адам және азамат құқықтарын конституциялық қорғау жүйесі, ал пәні – Конституциялық Соттың қызметі, оның құқық қолдану тәжірибесі және конституциялық әділдіктің сапасын айқындайтын әлеуметтік-құқықтық жағдайлар.

Зерттеу Қазақстандағы конституциялық шағымдардың басым бөлігі азаматтардың құқықтық сауатсыздығынан және Соттың құзыретіне қатысты түсінбеушіліктерінен туындайтынын анықтайды. Конституциялық Соттың тәжірибесі әлеуметтік қорғау, ақпаратқа қол жеткізу, мемлекеттік қызмет және кәсіпкерлікті реттеу салаларындағы көптеген заңнамалық сәйкес-

сіздіктерді көрсетеді, бұл құқықтық мониторингті жетілдірудің және неғұрлым тиімді іс жүргізу тетіктерінің қажеттілігін дәлелдейді. Мақала құқықтық білім беруді күшейту, қоғамдық хабардарлықты арттыру, конституциялық бақылаудың институционалдық кепілдіктерін нығайту, Конституцияның үстемдігін қамтамасыз ету және әділдікке қолжетімділікті жақсарту үшін маңызды екенін қорытындылайды.

**Түйін сөздер:** Конституциялық Сот, құқықтары мен бостандықтарын қорғау, нормативтік қаулы, конституциялық бақылау, Конституция, жолдау, халықаралық тәжірибе.

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### **Проблемы укрепления механизма защиты прав и свобод граждан в решениях Конституционного суда Республики Казахстан**

**Аннотация.** Статья рассматривает проблемы совершенствования механизма защиты прав и свобод граждан в решениях и практике Конституционного суда Республики Казахстан, уделяя внимание как институциональному развитию, так и общественным факторам, влияющим на конституционную защиту. В исследовании затрагивается центральная проблема недостаточной эффективности конституционных гарантий, на которую существенно влияют правовой нигилизм, низкий уровень правовой культуры и пробелы в законодательстве, ограничивающие полноценную реализацию конституционных прав. Объектом исследования выступает система конституционной защиты прав человека и гражданина в Казахстане, тогда как предметом является функционирование Конституционного суда, его юриспруденция и социально-правовые условия, определяющие качество конституционного правосудия.

В исследовании установлено, что большинство конституционных обращений в Казахстане возникает из-за правовой неграмотности граждан и неправильного понимания ими компетенции суда. Практика Конституционного суда выявляет многочисленные несоответствия в законодательстве в сферах социальной защиты, доступа к информации, государственной службы и регулирования предпринимательства, что демонстрирует острую необходимость улучшения правового мониторинга и более эффективных процессуальных механизмов. В статье делается вывод, что укрепление правового просвещения, повышение общественной осведомленности и усиление институциональных гарантий конституционного контроля являются необходимыми условиями для обеспечения верховенства Конституции и улучшения доступа к правосудию.

**Ключевые слова:** Конституционный суд, защита прав и свобод, нормативное постановление, конституционный контроль, Конституция, послание, международный опыт.

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