

УДК 342.561.

<https://doi.org/10.33619/2414-2948/50/33>

CONSTITUTIONAL PRINCIPLES OF THE JUDICIARY OF THE REPUBLIC OF KARAKALPAKSTAN

©*Berdimuratova G.*, Karakalpak State University named after Berdakh,
Nukus, Uzbekistan, berdimuratovagulnaz91@gmail.com

КОНСТИТУЦИОННЫЕ ПРИНЦИПЫ СУДЕБНОЙ ВЛАСТИ РЕСПУБЛИКИ КАРАКАЛПАКСТАН

©*Бердимуратова Г. М.*, Каракалпакский государственный университет им. Бердаха,
г. Нукус, Узбекистан, berdimuratovagulnaz91@gmail.com

Abstract. Article discusses provisions that indicate that in order to determine the fundamental principles of the judiciary, it is necessary to study the system of principles on which it is based. As the most general provisions expressing the essence and content of the phenomenon under study, the principles of the judicial system reflect the nature of the judiciary and the level of legal development of society. The status of the judiciary is revealed, first of all, by formulating the principles of its implementation.

Аннотация. В данной статье рассматриваются положения, указывающие на то, что для определения основополагающих принципов судебной власти необходимо изучить систему принципов, на которых она основана. В качестве наиболее общих положений, выражающих суть и содержание изучаемого явления, принципы судебной системы отражают характер судебной власти и уровень правового развития общества. Статус судебной власти раскрывается, прежде всего, путем формулирования принципов его осуществления.

Keywords: judicial branch, Republic of Karakalpakstan, functions of the judiciary, Constitutional principles, justice, independence of judges, specialization, presumption of innocence.

Ключевые слова: судебная власть, Республика Каракалпакстан, функции судебной власти, Конституционные принципы, правосудие, независимость судей, специализация, презумпция невиновности.

One of the fundamental features of the Constitution of the Republic of Karakalpakstan is the consolidation of the judiciary alongside the legislative and executive branches (article 11 of the Constitution of the Republic of Karakalpakstan) [1]. Judicial power as one of the types of state power is exercised by special state bodies by the courts included in the judicial system of the Republic of Karakalpakstan.

The administration of justice is the main content of the judiciary, the most important judicial function [2].

The principles of justice are fundamental legal ideas enshrined in the Constitution of the Republic of Karakalpakstan or arising from its norms that determine the organization and activities

of state bodies that exercise judicial power. Therefore, in the legal literature the principles of justice are called constitutional principles.

The meaning of the principles of justice:

- Principles determine the basis of justice
- All justice standards must be consistent with the principles
- The principles of justice are binding on the courts and judges, as well as on lawmakers when promulgating laws in the field of justice.
- Principles of justice determine stability and continuity in the field of justice
- Principles are of great importance for the correct interpretation of all other norms of justice, since they contain information about the goals and the true direction of a particular legal act.

The system of constitutional principles includes:

- legality;
- the administration of justice only by the court;
- independence of judges;
- administration of justice on the basis of the equality of all before the law and the court;
- ensuring access to justice;
- presumption of innocence; ensuring the suspect and the accused the right to defense;
- adversarial and equal rights of the parties; publicity of the trial in court;
- language of legal proceedings;
- the compulsory nature of judicial acts;
- the immediacy and oracles of judicial proceedings in the administration of justice [3].

Legality — universal general legal principle, which has found its normative embodiment in numerous articles of the Basic Law of the Constitution of the Republic of Karakalpakstan. The significance of the principle of legality in the administration of justice is that the court and all bodies and persons participating in constitutional, civil, criminal, administrative or other forms of legal proceedings are required to strictly observe the provisions of the Constitution of the Republic of Karakalpakstan, the Code of Criminal Procedure of the Republic of Uzbekistan, the Code of Civil Procedure of the Republic of Uzbekistan and other laws, as well as other regulatory legal acts that comply with the laws, generally recognized principles of the Republic of Karakalpakstan.

On this basis, courts are also required to comply not only with laws in general, but also with a hierarchy of laws. In the event of a conflict of law, the court should be guided first by the Constitution of the Republic of Karakalpakstan as the main law, and after that by other laws [4].

He must not only correctly apply the current legislation, but also prevent any violations of the law by participants in the legal proceedings, as well as other state bodies, officials and citizens.

Judicial Independence - the most important principle of justice. According to Art. 105 of the Constitution of the Republic of Karakalpakstan, judges are independent and subject only to the law.

Any interference in the activities of judges in the administration of justice is unacceptable and entails liability under the law. Judges cannot be senators, deputies of representative bodies of state power.

The judges are independent. Courts are free from any political parties. They are not subordinate to anybody or official. Guarantees of independence of a judge, including measures of his legal protection, social security, apply to all judges of the Republic of Karakalpakstan and cannot be canceled or reduced by other regulatory acts of the Republic of Karakalpakstan.

No one has the right to demand from a judge a report on a specific court case. A judge is not obliged to give any explanations on the merits of the cases examined or being processed, to present the cases to anyone for review only in cases and in the manner prescribed by law governing the organization and procedure of the courts, the status of courts and judges [5].

Judicial immunity. This principle is one of the ways in which the Constitution and laws ensure the independence of judges, the ability to objectively consider cases, to protect them from excessive attacks and influence. Judges have the right to immunity and cannot be detained or arrested, subjected to search or personal search, except when he was caught at the scene of the crime. According to Art. 70 of the Law of the Republic of Uzbekistan "On Courts" [2], independence of a judge is ensured. The identity of the judge is inviolable. The immunity of a judge extends to his home, office, his transportation and communications, his correspondence, his belongings and documents.

In order to ensure the personal safety of judges, they are given firearms according to a list determined respectively by the chairman of the Supreme Court, the Minister of Justice of the Republic of Uzbekistan. In necessary cases, by order of the chairman of the relevant court, the internal affairs body shall provide the judge and his family with armed security.

The principle of democracy. Democracy in the Republic of Karakalpakstan is based on universal principles, according to which the highest value is a person, his life, freedom, honor and dignity. Democratic rights and freedoms are protected by the Constitution and laws [3].

This is primarily seen during the selection of the Chairpersons and Vice-Chairpersons of the courts of the Republic of Karakalpakstan, who are elected by the Jokari Kenes of the Republic of Karakalpakstan on the proposal of the Chairman of the Jokari Kenes of the Republic of Karakalpakstan, agreed with the President of the Republic of Uzbekistan, based on the conclusion of the Supreme Judicial Council of the Republic of Uzbekistan.

Judges of the courts of the Republic of Karakalpakstan, chairmen and judges of inter-district, district (city) courts of the Republic of Karakalpakstan are appointed by the Jokari Kenes of the Republic of Karakalpakstan on the proposal of the Supreme Judicial Council of the Republic of Uzbekistan [6].

Administration of justice only by the court (Inadmissibility of extraordinary courts). This issue is set out in article 101. Litigation is carried out exclusively by the courts within the framework established by the Constitution and the Law of the Republic of Uzbekistan "On Courts". The creation of extraordinary courts is not allowed and contradicts the principle of justice enshrined in the Constitution. No other state law enforcement agency has the authority to make a lawful and informed decision in a case.

Language of proceedings - in accordance with Article 108 of the Constitution of the Republic of Karakalpakstan, legal proceedings are conducted in Karakalpak, Uzbek languages or in the language spoken by the majority of the population. Those who do not speak the language of the proceedings are given the right to have full access to the case materials through an interpreter and participate in the proceedings, as well as speak their native language. An important tool for ensuring civil rights is the choice of language in legal proceedings.

Public hearings (publicity of the trial in court). Article 106 of the Constitution of the Republic of Karakalpakstan states that the proceedings in all courts are open. Closed hearings are allowed only in cases provided by law. The principle of openness of the trial is one of the indicators of democratic proceedings [3].

This procedure provides citizens with the right to be present in the courtroom, to monitor the progress of the proceedings, to disseminate information about what they saw and heard at the hearing in the media or in another accessible way. Thus, one of the forms of control of the people over the activities of the judiciary is carried out.

Presumption of innocence. The term "presumption" means an assumption that is recognized as reliable until proven otherwise. This principle is quite clearly and fully presented in Article 24 of the Constitution of the Republic of Karakalpakstan [3].

According to the Code of Criminal Procedure of the Republic of Uzbekistan, the essence of the principle of the presumption of innocence can be defined in the following provisions:

- everyone is presumed innocent of committing a crime until his guilt is recognized by a court verdict that has entered into legal force;

- the defendant in a criminal case is not required to prove his innocence. Any doubt of guilt is interpreted in favor of the accused. All doubts about the evidence of the charge, which cannot be eliminated in the framework of due process in accordance with the CPC, are interpreted in favor of the accused. In his favor, unresolved doubts arising from the application of the law should also be resolved;

- no one is obliged to testify against himself, his (her) spouse (s) and close relatives, the circle of which is determined by law. The law may also establish other cases of exemption from the obligation to testify;

- the burden of proof of guilt in criminal and administrative cases rests with the prosecutor;

- evidence obtained in violation of the law is not recognized and not used in legal proceedings;

- no one can be convicted solely on the basis of his own confession to commit a crime [1].

Thus, only one instance can convict a person - a court. The presumption of innocence is valid until, on the basis of exhaustive evidence, it is proved in court that the person is guilty of an offense.

Obligation to execute judicial documents. Article 107 of the Constitution of the Republic of Karakalpakstan states: "Acts of the judiciary are binding on all state bodies, public associations, enterprises, institutions, organizations, officials and citizens." This shows that court documents have a strong status. Judicial acts of the courts of the Republic of Karakalpakstan that have entered into legal force, as well as legal orders, requirements, instructions, calls and other appeals of the courts are binding on all, without exception, state bodies, local self-government bodies, officials, associations of citizens and other organizations, individuals and legal entities and are subject to rigorous execution throughout the Republic of Karakalpakstan.

Failure to execute a judicial act, improper execution or obstruction of the execution of judicial acts, as well as interference in the activities of the courts shall entail liability established by law.

The right to defense of the accused (Providing the suspect and the accused with the right to defense). This principle is enshrined in article 109 of the Constitution of the Republic of Karakalpakstan. The accused is guaranteed the right to a defense. The right to professional legal assistance is guaranteed at any stage of the investigation and legal proceedings. To provide legal assistance to citizens, enterprises, organizations and institutions, advocacy is functioning. The organization and procedure for the activities of the bar are determined by law [4].

The administration of justice on the basis of the equality of all before the law and the court. In accordance with Art. 13, 14 of the Constitution, in the Republic of Karakalpakstan all people are equal before the law and the court. No one may be subjected to any kind of discrimination, infringement of freedoms and rights on the grounds of origin, gender, race, nationality, language, religion, political and religious beliefs or for any other circumstances of a personal or public nature.

Equality before the law means that laws that discriminate against citizens on one or more of the above grounds cannot be passed. For all citizens in the state there is a single procedure for filing complaints, bringing to criminal responsibility.

The equality of all before the law and the court is guaranteed by a single court and a single law. Subsequently, the legislation of the country was amended and strengthened defensive positions, which led to the strengthening of the principle of judicial protection of citizens. The principles outlined above are constitutional principles, and there are other principles that apply to the work of the courts and are reflected in the law.

The judiciary is one of the branches of state power, the subject of which is the court, which occupies a special place in the system of state bodies and implements its functions in a special procedural form. The concept of the judiciary is one of the key constitutional concepts. In those countries where state power is organized on the basis of the principle of separation of powers, the judiciary is an important component of the trinity (along with the legislative and executive powers), in which each branch of government performs its function.

References:

1. Berdimuratova, G. (2019). Konstitutsionnye osnovy i etapy razvitiya sudebnoi sistemy v Respublike Karakalpakstan. *Science time*, 2(62), 6-9.
2. Karimov I. A. (2003). Izbrannyi nami put' - eto put' demokraticeskogo razvitiya i sotrudnichestva s progressivnym mirom. Tashkent, 11. 100-101.
3. Konstitutsiya Respubliki Karakalpakstan (2006). Nukus: Karakalpakstan, 90-91.
4. Qizi, A. (2019). Some matters of the constitutional court proceedings. *International Journal of Research*, 6(5), 180-185.
5. Allambergenov, S. (2019). The System of Executive Bodies of the Republic Of Karakalpakstan. *International Journal of Research*, 6(2), 907-910.
6. Joldasbayevich, R. M. (2019). Historical Aspects of the Development of the Institution of Legal Personality of Citizens of the Republic Of Uzbekistan. *International Journal of Research*, 6(10), 731-738.

Список литературы:

1. Бердимуратова Г. Конституционные основы и этапы развития судебной системы в Республике Каракалпакстан // *Science time*. 2019. №2(62). С. 6-9.
2. Каримов И. А. Избранный нами путь - это путь демократического развития и сотрудничества с прогрессивным миром. Ташкент, 2003. Т. 11. С. 100-101.
3. Конституция Республики Каракалпакстан. Нукус: Каракалпакстан, 2006. С. 90-91.
4. Qizi A. Some matters of the constitutional court proceedings // *International Journal of Research*. 2019. V. 6. №5. P. 180-185.
5. Allambergenov S. The System of Executive Bodies of the Republic Of Karakalpakstan // *International Journal of Research*. 2019. V. 6. №2. P. 907-910.
6. Joldasbayevich R. M. Historical Aspects of the Development of the Institution of Legal Personality of Citizens of the Republic Of Uzbekistan // *International Journal of Research*. 2019. V. 6. №10. P. 731-738.

*Работа поступила
в редакцию 04.12.2019 г.*

*Принята к публикации
09.12.2019 г.*

Ссылка для цитирования:

Berdimuratova G. Constitutional Principles of the Judiciary of the Republic of Karakalpakstan // *Бюллетень науки и практики*. 2020. Т. 6. №1. С. 278-282. <https://doi.org/10.33619/2414-2948/50/33>

Cite as (APA):

Berdimuratova, G. (2019). Constitutional Principles of the Judiciary of the Republic of Karakalpakstan. *Bulletin of Science and Practice*, 6(1), 278-282. <https://doi.org/10.33619/2414-2948/50/33>