Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 26/11/2026 22:30:27

Articles

Studia Iuridica Lublinensia vol. 35, 1, 2026
DOI: 10.17951/sil.2026.35.1.251-266

Jerzy Szukalski
University of Siedlce, Poland
ORCID: 0000-0001-9960-7571
jerzy.szukalski@uws.edu.pl

Constitutional Reform in Kazakhstan during the Presidency of Kassym-Żomart Tokayev

Reforma konstytucyjna w Kazachstanie w okresie prezydentury Kasym-Żomarta Tokajewa

ABSTRACT

The subject of the study is the constitutional reform in Kazakhstan during the presidency of Kassym-Jomart Tokayev. This reform is part of Tokayev's liberalization of the authoritarian state system. The analysis focuses on the Law on Amendments and Additions to the Constitution of the Republic of Kazakhstan, adopted by referendum on 5 June 2022. The amendments introduced by the Law include, in particular, the limitation of the President of Kazakhstan to a single seven-year term of office, the strengthening of the role of Parliament, the establishment of the Constitutional Court, the possibility of filing a constitutional complaint, the reform of the electoral system governing parliamentary elections, and the enhancement of the autonomy of local self-government units. The study concludes that the constitutional reform in Kazakhstan did not result in the transformation of the system of government from a super-presidential to a presidential model, as announced by the presidential camp. Nevertheless, it strengthened the level of protection afforded to individual rights and freedoms within the state. The article is innovative due to the temporal scope of the issues examined therein.

Keywords: Kazakhstan; constitution; liberalization; reform; president

CORRESPONDENCE ADDRESS: Jerzy Szukalski, PhD, Assistant Professor, University of Siedlce, Faculty of Social Sciences, Institute of Political Science and Public Administration, Żytnia 39, 08-110 Siedlce, Poland.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 26/11/2026 22:30:27

INTRODUCTION

Kazakhstan emerged as an independent state in 1991 as a result of the collapse of the Soviet Union. The Constitution of the Republic of Kazakhstan (hereinafter: the RK) of 30 August 1995 established a presidential system of government. Despite the introduction of the constitutional principle of separation of powers, a consistent separation and balance of powers were not guaranteed, thereby ensuring the President of the RK a dominant position in the system of state bodies.

The first president of Kazakhstan, Nursultan Nazarbayev, who in April 1990 was the former First Secretary of the Communist Party of the Kazakh Soviet Socialist Republic, consistently strengthened his power by relying on the old party-state elites and the traditional clan and *zhuz* systems. His principal political base was the Nur-Otan party, founded in March 1999. Subsequent constitutional amendments adopted at Nazarbayev's initiative (on 7 October 1998, 21 May 2007, and 10 March 2017), and the constitutional laws, including the Constitutional Law of 20 July 2000 on the First President of the RK – *Elbasy*, and Constitutional Law of 14 June 2010 on Amendments and Additions to Certain Constitutional Laws of the RK Regarding the Improvement of Legislation of the RK in the Field of Securing the Activities of the First President – the Leader of the Nation, granted him extensive powers characteristic of a super-presidential system and lifetime election. In practice, an authoritarian political regime was established and acquired new strength in Kazakhstan.[1] It was only when Kassym-Jomart Tokayev assumed the office of Acting President of the RK (on 20 March 2019) and then as the full head of state (on 12 June 2019), that the liberalization of the authoritarian state system began. The effect of Tokayev's reformist course in internal politics was, primarily, the adoption of changes and additions to the Constitution of the RK by referendum on 5 June 2022.[2]

The aim of the study is to analyse the constitutional reform carried out in Kazakhstan in 2022 and to situate it within the broader context of the liberalization of the state's political system since 2019. The leading research hypothesis is that the constitutional reform in Kazakhstan had only a normative dimension and did not result in substantial changes to the constitutional system of the state or significantly alter the functioning of its political regime.

---

[1] T. Bodio, T. Mołdawa, *Konstytucje państw Azji Centralnej. Tradycje i współczesność*, Warszawa 2007, pp. 15–16, 60–102; N.A. Borisov, *Prezidentstvo na postsovetskom prostranstve. Protsessy genezisa i transformatsii*, Moscow 2018, pp. 43–50, 205–208; J. Szukalski, *Dwa lata prezydentury Kasym-Żomarta Tokajewa. Kontynuacja i reformy*, [in:] *Kazachstan – 2021. Sytuacja wewnętrzna i pozycja międzynarodowa Republiki Kazachstanu w 30. roku niepodległości*, ed. W. Sokołowski, Warszawa 2021, pp. 103–110.

[2] A. Dovgolenko, *Vpechatlyayushchiy tranzit. Itogi pervogo goda reform v Kazakhstane*, https://www.ng.ru/cis/2020-06-05/100_121205062020.html (access: 12.10.2023).

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 26/11/2026 22:30:27

The research questions formulated in this connection are as follows:

1. Have the solutions adopted as part of the constitutional reform led to a change in the system of government in Kazakhstan?
2. Have the systemic and political positions of the President of the RK changed significantly as a result of the reform?
3. Has the reform in question strengthened the level of protection of individual freedoms and rights in the state?

The study mainly uses the formal-dogmatic method, the institutional-legal method, and critical analysis of the literature on the subject. The first two methods are used, respectively, for the normative analysis of the legal acts and institutional changes, mainly in the area of protection of individual freedoms and rights in the legal order of Kazakhstan. The critical analysis method is applied in the selection of studies, especially Kazakh ones, which should be approached with due caution, because freedom of speech in Kazakhstan is still severely limited. Due to the short time perspective of the issues discussed in the study, it is of an innovative nature, hence, in addition to legal acts, it also uses documents and sources of a journalistic nature.

THE GENESIS OF THE CONSTITUTIONAL REFORM

The first two years of Kassym-Jomart Tokayev's presidency were characterized by a two-track policy. It was both a continuation of Nursultan Nazarbayev's political line and a period of the first cautious reforms. Tokayev's reticence resulted primarily from respect for Nazarbayev, who, when stepping down from the office of President of the Republic of Kazakhstan, continued to serve as Chairman of the Security Council of the RK, Chairman of the Nur-Otan party, and Chairman of the Assembly of the People of Kazakhstan (hereinafter: APK), and also retained a number of special powers arising from the titles of the First President of the RK and Leader of the Nation. Nazarbayev also continued to enjoy the support of loyal officials within the state apparatus, local government units, and business sector.[3]

Tokayev's first reform initiatives include the establishment of the Agency for Strategic Planning and Reforms in the RK on 9 September 2020 and the introduction of direct elections of local heads of administration by voters of a given territorial unit.[4] This period also witnessed significant improvements in the protection of individual rights and freedoms in Kazakhstan. This was expressed, among other

[3] M. Marszewski, K. Strachota, *Kazachstan: kontrolowana sukcesja*, "Analizy Ośrodka Studiów Wschodnich", 20.3.2019.

[4] A. Chebotarev, *Kazakhstan – 2020: bor'ba s koronavirusom i novyye reformy. Analiticheskiy doklad*, Nur-Sultan 2021, pp. 28–35; A. Beloborodov, *Kompleksnyye reformy. V Kazakhstane sovershenstvuyetsya zakon o vyborakh*, https://aif.ru/politics/world/kompleksnye_reformy_v_kazahstane_sovershenstvuetsya_zakon_o_vyborah (access: 13.10.2023).

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 26/11/2026 22:30:27

things, by the liberalization of the provisions of the Law of 25 May 2020 on Political Parties.[5] As a result, the requirements for registering a political party were lowered, reducing the number of signatures of support from 40,000 to 20,000. Moreover, for parties competing for the division of seats in the lower house, the Mäjilis, in the parliamentary elections, the electoral threshold was lowered from 7% to 5%.

In September 2020, on Tokayev's initiative, Kazakhstan acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights, which was ratified on 2 January 2021. Kazakhstan's accession to the Protocol resulted in the formal abolition of the death penalty.[6] In its turn, on 29 December 2021, on Tokayev's initiative, the Law on the Plenipotentiary Ombudsman for Human Rights in the Republic of Kazakhstan was adopted.[7]

The January 2022 unrest constituted a turning point in Kazakhstan's reform process, including the subsequent constitutional reform. They were initiated on 2 January by protests in Zhanaözen, triggered by an almost 100% increase in natural gas prices. In the following days, the protests spread throughout the country and took the form of riots, which included storming public administration buildings, plundering shopping centres and bloody clashes with the police. In addition to economic demands, the protesters also demanded that Nursultan Nazarbayev be deprived of his privileges. Under the influence of these events, on 5 January, Tokayev dismissed the government and asked for help from the Collective Security Treaty Organization (hereinafter: CSTO). The first CSTO troops, most of whom were Russians, arrived by air in Kazakhstan on 6 January, which immediately calmed the situation and demonstrated that Tokayev enjoyed the political backing of Moscow. According to the official data, 227 people died in the clashes, including 19 law enforcement officers.[8]

The public protests allowed Kassym-Jomart Tokayev to become independent from Nazarbayev and became an impetus for further limited reforms aimed at

[5] Zakon Respubliki Kazakhstan ot 25 maya 2020 goda № 336-VI ZRK «O vnesenii izmeneniya i dopolneniy v Zakon Respubliki Kazakhstan O politicheskikh partiyakh», https://online.zakon.kz/Document/?doc_id=33966664 (access: 14.10.2023).

[6] A. Plaçais, *Kazakhstan Ratifies the Second Optional Protocol to the ICCPR*, https://worldcoalition.org/2022/04/01/kazakhstan-ratifies-the-second-optional-protocol-to-the-iccpr (access: 15.10.2023).

[7] For more information, see J. Szukalski, *Instytucja Pełnomocnego Rzecznika ds. Praw Człowieka w Kazachstanie w ujęciu normatywnym*, [w:] *Z prawem ustrojowym porównawczym przez ponad półwiecze. Księga jubileuszowa dedykowana Profesorowi Marianowi Grzybowskiemu z okazji 55-lecia pracy naukowej*, eds. B. Przywora, A. Rogacka-Łukasik, K. Skotnicki, Częstochowa 2022, pp. 810–817.

[8] J. Olędzki, *Styczniowa rebelia. Wydarzenia w Kazachstanie i reakcja na nie Rosji, Chin i państw Azji Centralnej*, https://instytutboyma.org/pl/styczniowa-rebelia-wydarzenia-w-kazachstanie-i-reakcja-na-nie-rosji-chin-i-panstw-azji-centralnej (access: 16.10.2023); K. Strachota, *Eskalacja protestów w Kazachstanie*, "Analizy Ośrodka Studiów Wschodnich", 5.1.2022

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 26/11/2026 22:30:27

streamlining the government and modernizing the state. Apart from the participants in the protests, the repression also affected the representatives of the government and business apparatus associated with the previous system, including the members of the family of the First President of the RK. Nazarbayev himself was deprived of the position of the chairman of the Nur-Otan party and the function of the lifetime chairman of the Security Council of the RK, pursuant to the amendment to the Law of 5 July 2018 on the Security Council of the RK adopted on 7 February 2022.[9] On the same day, Nazarbayev also ceased to serve as the Chairman of the APK.[10] The office of Chairman of both the Security Council and the APK was transferred to the incumbent President. Moreover, on 28 January 2022, he took over as the chairman of the Nur-Otan party, changing its name to Amanat.[11]

On 16 March 2022, Tokayev delivered an address to the Senate and the Mäjilis, entitled "New Kazakhstan: The Path of Renewal and Modernization", in which he announced a far-reaching reform of the state's political system. The president pointed out the need for "a final transition from a super-presidential form of government to a presidential republic with a strong parliament" and announced his resignation from the presidency of Nur-Otan. He also drew attention to the need for changes in the electoral system for the Parliament of the RK, further liberalization of the Law on Political Parties, the establishment of the Constitutional Court in place of the current Constitutional Council of the RK, and strengthening civil society institutions and local self-government.[12]

In order to implement the demands contained in the speech, pursuant to a regulation of 28 March 2022, Tokayev established a Working Group for the development of proposals for changes and additions to the Constitution of the RK. It consisted of 19 members. The Group was chaired by Yerzhan Zhenbayev, Deputy Head of the Administration of the President of the RK. The regulation set a one--month deadline for preparing a draft law on introducing changes and additions to

[9] Zakon Respubliki Kazakhstan ot 5 iyulya 2018 goda № 178-VI «O Sovete Bezopasnosti Respubliki Kazakhstan» (s izmeneniyami ot 07.02.2022 g.), https://online.zakon.kz/Document/?doc_id=38039248 (access: 17.10.2023); V. Mikhaylov, *„Tokayev i Nazarbayev – lyudi odnoy komandy". Mozhno li govorit'o „yarostnoy bor'be" dvukh liderov i chto seychas proiskhodit v Kazakhstane*, https://www.currenttime.tv/a/tokaev-i-nazarbaev-lyudi-odnoy-komandy-mozhno-li-govorit-o-yarostnoy-borbe-dvuh-liderov-i-chto-seychas-proishodit-v-kazahstane/31659583.html (access: 17.10.2023).

[10] Article 7 (2), Zakon Respubliki Kazakhstan ot 20 oktyabrya 2008 goda № 70-IV «Ob Assambleye naroda Kazakhstana» (s izmeneniyami i dopolneniyami po sostoyaniyu na 18.11.2022 g.), https://online.zakon.kz/Document/?doc_id=30352401&show_di=1 (access: 17.10.2023).

[11] A. Vayskopf, *Prezident Tokayev stal yedinolichnym liderom Kazakhstana*, https://www.dw.com/ru/tokaev-stal-glavoj-pravjashhej-partii-i-edinolichnym-liderom-kazahstana/a-60594969 (access: 17.10.2023).

[12] President of the Republic of Kazakhstan, *Message from the Head of State Kassym-Jomart Tokayev to the People of Kazakhstan*, https://www.akorda.kz/ru/poslanie-glavy-gosudarstva-kasym-zhomarta-tokaeva-narodu-kazahstana-1623953 (access: 17.10.2023).

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 26/11/2026 22:30:27

the Constitution of the RK.[13] In preparing the draft law, the Group had to follow the guidelines contained in the National Action Plan on the Implementation of the Address of the Head of State of 16 March 2022, which was attached to the Decree of the President of the RK of 29 March 2022.[14]

THE CONSTITUTIONAL REFERENDUM

In order to give a democratic setting to the constitutional reform that he initiated and fully controlled, the President of the RK decided to hold a referendum on the adoption of the changes proposed in the draft law, which he officially announced for the first time at the APK session on 29 April 2022.[15] In the vote scheduled for 5 June 2022, all proposed constitutional amendments were submitted to voters in a single referendum question. It read, "Are you in favour of adopting the changes and additions to the Constitution of the Republic of Kazakhstan contained in the draft law of the Republic of Kazakhstan on introducing changes and additions to the Constitution of the Republic of Kazakhstan?". This arrangement made it impossible for voters to express differentiated preferences regarding individual amendments, despite the extensive scope of the proposed changes, which affected thirty-three provisions of the Constitution.[16] According to official data published by the Central Electoral Commission, 6,163,516 citizens voted in favour of the proposed amendments, representing 77.18% of participating voters, while 1,490,470 voted against them.[17]

According to independent international observers, in particular the Office for Democratic Institutions and Human Rights (hereinafter: OSCE/ODIHR), the constitutional referendum lacked political pluralism and social debate regarding the

[13] Rasporyazhenie Prezidenta Respubliki Kazakhstan ot 28 marta 2022 goda № 293 «O Rabochey gruppe po vyrabotke predlozheniy o vnesenii izmeneniy i dopolneniy v Konstitutsiyu Respubliki Kazakhstan», https://www.akorda.kz/ru/o-rabochey-gruppe-po-vyrabotke-predlozheniy-o-vnesenii-izmeneniy-i-dopolneniy-v-konstituciyu-respubliki-kazahstan-2921340 (access: 17.10.2023).

[14] Ukaz Prezidenta Respubliki Kazakhstan ot 29 marta 2022 goda № 847 «O merakh po realizatsii Poslaniya Glavy gosudarstva narodu Kazakhstana ot 16 marta 2022 goda "Novyy Kazakhstan: put' obnovleniya i modernizatsii"», https://online.zakon.kz/Document/?doc_id=39648047 (access: 18.10.2023).

[15] W. Górecki, *Pierestrojka Tokajewa. Kazachstan wobec wyzwań wewnętrznych i zewnętrznych*, "Komentarze Ośrodka Studiów Wschodnich" 2022, no. 456, p. 1.

[16] See Ukaz Prezidenta Respubliki Kazakhstan ot 5 maya 2022 goda № 888 «O provedenii 5 iyunya 2022 goda respublikanskogo referenduma», https://online.zakon.kz/Document/?doc_id=36487793&pos=5;-108#pos=5;-108 (access: 18.10.2023).

[17] Central Election Commission of the Republic of Kazakhstan, *Ob itogakh golosovaniya na respublikanskom referendume 5 iyunya 2022 goda*, https://www.election.gov.kz/rus/news/acts/index.php?ID=7120 (access: 19.10.2023).

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 26/11/2026 22:30:27

merits of the proposed constitutional changes. Other shortcomings were also pointed out, such as: too short period for citizens to familiarize themselves with the draft constitutional amendments, which was only a month; limited access to mass media; the late accreditation of international observers by the Central Electoral Commission to the participation in observing the electoral process; no rallies and meetings during the referendum campaign, as well as the exclusion of incarcerated persons from participation in the referendum.[18]

AMENDMENTS OF THE CONSTITUTION OF THE REPUBLIC OF KAZAKHSTAN

The most significant changes in the Constitution of the RK included the provisions of Chapter II "Man and Citizen", Chapter III "President", Chapter IV "Parliament", Chapter VI, which title was changed from "Constitutional Council" to "Constitutional Court", Chapter VII "Courts and Justice System. Prosecutors Office. Plenipotentiary Ombudsman for Human Rights", and Chapter VIII "Local State Administration and Territorial Self-Government".

Within Chapter II of the Constitution of the RK, Article 15 (2) and Article 23 (2) were amended. Article 15 (2) now prohibits the deprivation of life and the imposition of the death penalty. Article 23 (2), in turn, extends the requirement of political neutrality to judges of the Supreme Court and the Constitutional Court, as well as to the chairmen and members of the Central Electoral Commission and the Audit Chamber.[19] The amendments to Article 23 constitute a significant step towards strengthening democratic standards in Kazakhstan. This is particularly important in light of persistent concerns regarding corruption and the subordination of the judiciary and prosecutorial authorities to the executive branch, as well as numerous allegations against the Central Electoral Commission regarding successive presidential and parliamentary elections in this country, as documented in OSCE/ODIHR election observation reports.[20]

The constitutional reform amended Articles 41–44 and 46–47 of Chapter IV. The most significant amendment concerned Article 41 (1), which introduced a single

[18] OSCE/ODIHR, *Kazakhstan, Referendum, 5 June 2022: Final Report*, 6.10.2022, https://www.osce.org/odihr/elections/528006 (access: 20.10.2023), pp. 1–3, 12–14, 18–20.

[19] Zakon Respubliki Kazakhstan ot 8 iyunya 2022 goda «O vnesenii izmeneniy i dopolneniy v Konstitutsiyu Respubliki Kazakhstan» (prinyat na respublikanskom referendume 5 iyunya 2022 goda), https://adilet.zan.kz/rus/docs/Z220000001K/links (access: 20.10.2023).

[20] S.-H. Akkuly, *Do vyborov Nazarbayev obeshchal nezavisimost' sudov, a posle vyborov – lish' ikh effektivnost'*, https://rus.azattyq.org/a/court_independence_kazakhstan_/9502248.html (access: 21.10.2023); A. Abayeva, *Kak korruptsiya unichtozhayet sudebnuyu sistemu Kazakhstana*, https://adyrna.kz/ru/post/131919 (access: 21.10.2023).

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 26/11/2026 22:30:27

seven-year presidential term without the possibility of re-election. Another important change was made to Article 43, which establishes a ban on the membership of the President of the RK in a political party during the term of office and on the holding of high official and managerial positions in state sector enterprises by close relatives of the President of the RK. Moreover, in Article 46 (4) was repealed, which had guaranteed the First President of Kazakhstan to retain the special status and privileges specified in the Constitutional Law of 20 July 2000 on the First President of the RK – *Elbasy*. Another significant change with regard to the head of state was introduced through Article 88 (4) of Chapter VIII, according to which the President of the RK lost the constitutional power to annul or modify acts issued by the heads of the local executive bodies of state power (*äkims*).[21]

The most extensive amendments concerned Chapter V, in which the provisions of Articles 50–58 and 61–62 were changed or supplemented. The new solutions include: limiting the number of senators elected by the President of the RK from 15 to 10, including five nominated upon the recommendation of the APK (Article 50 (2)); reducing the number of deputies of the Mäjilis from 107 to 98, elected in a mixed system, i.e. proportional throughout the country and majoritarian elections in single-member constituencies (Article 50 (3)); abolishing the APK's right to elect nine deputies to the Mäjilis (Article 51 (1)); and transferring to the competences of the joint chambers of the Parliament of the RK the power to adopt constitutional laws (Article 53 (1-1)) and to vote on constitutional laws vetoed by the President of the RK (Article 53 (1-2)).

The changes in the regulations concerning the President of the RK and his relations with Parliament, the Constitutional Court, and local state administration, indicated in Chapters III, IV, VI, and VIII, according to some Kazakh constitutionalists, have changed the country's system of government from a super-presidential one to a presidential one.[22] However, there are reasonable doubts about this, as the President of RK still possesses significantly greater powers than the head of state in a model presidential system of government, which is generally viewed in doctrine as the system of government operating in the United States.[23] Furthermore, even if

[21] Articles 87–88 of the Law 8 June 2022.

[22] See more C.F. Udarcev, *Konstitucionnaya reforma 2022 goda v Kazahstane: korrektipovka modeli gosudarstva, ukreplenie pravozashchitnyh mehanizmov posle massovyh besporyadkov vystuplenij nachala goda*, "Gosudarstvenno-pravovye issledovaniya" 2022, no. 5, pp. 60–61; M. Vajda, *Novaya politicheskaya real'nost'. Kak prezidentskie reformy menyayut Kazahstan?*, https://qmonitor.kz/politics/5502 (access: 6.5.2026); T. Nurseitova, *Prezidentskie reformy i budushchee politicheskoj sistemy Kazahstana – ehkspertnoe mnenie*, https://www.zakon.kz/stati/6014798-prezidentskie-reformy-i-budushchee-politicheskoi-sistemy-kazakhstana-ekspertnoe-mnenie.html (access: 6.5.2026); A. Chebotaryov, *Konstitucionnaya reforma-2022: ot anonsa k realizacii*, http://www.alternativakz.com/index.php?nid=468 (access: 6.5.2026).

[23] A. Antoszewski, R. Herbut, *Systemy polityczne współczesnego świata*, Gdańsk 2001, p. 320.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 26/11/2026 22:30:27

we assume that this is already a presidential system of government, it still differs significantly from the classic model of such a system of government, which is, in fact, a characteristic feature of the post-Soviet countries. The systems of government in the countries in this region take on specific forms, which is primarily the result of their lack of indigenous constitutionalism during the Soviet period, not always skilful "copying" of foreign solutions, and, finally, attempts to reconcile the aspirations of local elites with accepted international obligations.[24]

The solutions that, under the Constitution of RK amended in 2022, are inconsistent with the model form of presidential government include: the lack of a strict separation and balance of powers, the President of the RK's possession of significant instruments of influence over the legislative branch, and the powers of appointment, particularly with respect to the judiciary. With regard to Parliament, the President of the RK possesses the following powers that are inconsistent with the model system of presidential government: the right to initiate legislative acts, the right to participate and address sessions of Parliament and each of its chambers (one should exclude the address to Parliament, for it is also held by the President of the United States), the right to convene regular and extraordinary sessions of the legislature and determine the topic of its debates, and the right to terminate the Parliament's term prematurely. The Constitution of RK does not specify the circumstances in which the President has the right to terminate the term of Parliament prematurely. It only states that "The President of the Republic, after consulting the Speakers of the Chambers of Parliament and the Prime Minister, may dissolve Parliament or the Majilis of the Parliament" (Article 63 (1)). The opinions of the Speakers of the Chambers of Parliament and the Prime Minister are not binding, and the final decision on shortening the term of Parliament rests with the President. The Constitution prohibits the premature dissolution of Parliament or the Mäjilis during a state of emergency or martial law, during the last six months of the President's term of office, and within one year of a previous dissolution (Article 63 (2)). The President still has a significant influence on shaping the composition of the Senate, and through *zhuz*- and clan-based arrangements, it also informally influences the composition of the lower house.

Therefore, it should be emphasized that the changes introduced as a result of the constitutional reform did not significantly weaken either the political or constitutional position of the President of the RK. Although the President is not the head of the Government of the RK, he has a decisive influence on the selection of the Prime Minister and the composition of the cabinet, as well as on the functioning of the local government administration.

[24] B. Dziemidok-Olszewska, *Instytucja prezydenta w państwach Europy Środkowej i Wschodniej*, Lublin 2003, pp. 126–129; J. Szymanek, *Konstytucyjne wyznaczniki pozycji ustrojowej parlamentu w przestrzeni poradzieckiej: casus Azji Centralnej*, "Studia Prawnicze" 2008, no. 2, pp. 14–15.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 26/11/2026 22:30:27

Among the other significant amendments in the Constitution of the RK, particular attention should be paid to the provision of Article 71, on the basis of which the Constitutional Court of the RK was established in place of the Constitutional Council.[25] It consists of 11 judges elected for a six-year term with the possibility of one reappointment. The President of the RK with the consent of the Senate appoints the Chairman of the Constitutional Court. The President also appoints four judges, and the Senate and the Mäjilis appoint three judges. The Constitution prohibits the judges of the Constitutional Court from combining their positions with the mandate of a deputy and other paid positions, with the exception of scientific, teaching and creative work. During the period of exercising their powers, judges of the Constitutional Court cannot be arrested or held criminally or administratively liable without the consent of the Parliament of the RK, except in cases of arrest at the scene of a crime or the commission of a crime.[26] The reform also introduced the institution of the constitutional complaint, enabling citizens to challenge violations of constitutional rights before the Constitutional Court.[27]

The establishment of the Constitutional Court and the introduction of the right of Kazakh citizens to submit a constitutional complaint have increased the level of protection of constitutional freedoms and individual rights in this country. However, the shortcoming of the new regulations is that the President of the RK still has too much influence on shaping the composition of the Constitutional Court, which raises justified doubts about its independence.

In Chapter VII, the title of which was changed from "Courts and the Justice System" to "Courts and the Justice System. Public Prosecution Service. Human Rights Protection Mechanisms", there is a new provision in Article 83-1, which generally regulates the status and activities of the Plenipotentiary Ombudsman for Human Rights in Kazakhstan. In this way, the institution of the Ombudsman acquired a constitutional status. The Ombudsman is defined in the above-mentioned provision as an institution contributing "to restoring violated human and citizen rights and freedoms" and "promoting human and civil rights and freedoms" (sec. 1). The Constitution states that the Plenipotentiary Ombudsman for Human Rights is independent in the exercise of his powers and is not accountable to state bodies or officials (sec. 2). While in office, the Ombudsman cannot be detained

[25] It was established on the basis of the Constitutional Act of 29 December 1995 replacing the Constitutional Court, which operated until August 1995. The main task of the Constitutional Council was to control the constitutionality of law, although it was not an organ of the judiciary. For more information, see A. Bisztyga, *Pozycja ustrojowa, organizacja i kompetencje Rady Konstytucyjnej Republiki Kazachstanu*, "Przegląd Prawa Konstytucyjnego" 2014, no. 2. pp. 44–53; B. Bayniyazov, *Konstitutsionnyy Sovet Respubliki Kazakhstan: teoretiko-pravovoy analiz*, "Vestnik Kazakhstansko-Amerikanskogo svobodnogo universiteta" 2011, no. 4, pp. 82–87.

[26] Article 71 of the Law of 8 June 2022.

[27] Article 72 of the Law of 8 June 2022.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 26/11/2026 22:30:27

or brought to criminal or administrative liability without the consent of the Senate, except in cases of arrest at the scene of a crime or the commission of a crime (sec. 3). The Constitutional Law (sec. 4) regulates the status and organization of the Ombudsman's activities.[28] The independence of the Ombudsman could be further strengthened by revising the method of appointment; however, the legislator did not opt for such a solution.

The reform was implemented by the adoption of the Constitutional Law on the Constitutional Court of the RK on 5 November 2022, which entered into force 10 days after its publication.[29] On the same day, the Constitutional Law on the Plenipotentiary Ombudsman for Human Rights in the RK was adopted.[30] In addition, on 5 November 2022, a Constitutional Law was adopted, based on which the provisions of as many as seven constitutional laws were amended, including primarily those relating to the Constitutional Law of 28 September 1995 on Elections in the RK, the Constitutional Law of 16 October 1995 on the Parliament of the RK and the Status of Its Deputies, the Constitutional Law of 2 November 1995 on the National Referendum, the Constitutional Law of 18 December 1995 on the Government of the RK, the Constitutional Law of 26 December 1995 on the President of the RK, the Constitutional Law of 4 June 2007 on the State Symbols of the RK, and the Constitutional Law of 7 December 2015 on the Astana International Financial Centre. These amendments entered into force on 1 January 2023.[31]

An immediate consequence of the constitutional reform in Kazakhstan was the holding of early presidential and parliamentary elections, which took place on 20 November 2022 and 19 March 2023, respectively. In the presidential elections, Kassym-Jomart Tokayev won a clear victory, for whom, according to the official data, 81.3% of voters cast their votes. On the one hand, this allows us to assume that the reform course he has chosen, at least in the moderate variant, will be continued. On the other hand, these elections indicate the existence of systemic problems. Despite the entry into force of the new electoral law, the last presidential elections in Kazakhstan were not pluralistic in nature. Independent candidates were prevented from participating in these elections. Moreover, international observers,

[28] Article 83-1 of the Law of 8 June 2022.

[29] Konstitutsionnyy zakon Respubliki Kazakhstan ot 5 noyabrya 2022 goda № 153-VII «O Konstitutsionnom Sude Respubliki Kazakhstan», https://adilet.zan.kz/rus/docs/Z2200000154 (access: 24.10.2023).

[30] Konstitutsionnyy zakon Respubliki Kazakhstan ot 5 noyabrya 2022 goda № 154-VII ZRK «Ob Upolnomochennom po pravam cheloveka v Respublike Kazakhstan», https://adilet.zan.kz/rus/docs/Z2200000156 (access: 24.10.2023).

[31] Konstitutsionnyy zakon Respubliki Kazakhstan ot 5 noyabrya 2022 goda № 156-VII «O vnesenii izmeneniy i dopolneniy v nekotoryye konstitutsionnyye zakony Respubliki Kazakhstan po voprosam realizatsii Poslaniya Glavy gosudarstva ot 16 marta 2022 goda», https://adilet.zan.kz/rus/docs/Z2200000156 (access: 24.10.2023).

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 26/11/2026 22:30:27

primarily from the OSCE, assessed that the mass media showed clear favouritism for Tokayev, the involvement of the administrative apparatus was in his favour, and the transparency of vote counting was at least questionable.[32] In addition, only the candidates from the party lists won the seats in the Mäjilis in the parliamentary elections. The pro-presidential Amanat party obtained 53.9% of the votes. Voter turnout was only 54.2%. There were numerous violations of electoral law in these elections. First of all, independent candidates were prevented from running and preventive detentions were made. Moreover, the involvement of the state apparatus and the media in favour of the presidential camp was visible.[33]

In the context of the indicated violations that occurred in the presidential and parliamentary elections, one can have justified doubts as to the real will of the presidential camp to liberalize the state's political system. The practice of implementing constitutional reform shows that, so far, it has only a normative and propaganda dimension, serving to improve the image of the state in the international arena. Although the composition of the ruling camp has changed, the rules and style of exercising power remain largely unchanged, and Kazakhstan continues to exhibit the characteristics of an authoritarian regime, albeit in a comparatively less repressive form.

CONCLUSIONS

To summarize the considerations regarding the constitutional reform in Kazakhstan during the presidency of Kassym-Jomart Tokayev, it should be stated that this reform is part of the liberalization of the authoritarian political system undertaken by the new president. The public protests that took place in January 2022 were of key importance for the possibility of carrying out the reform. They became a catalyst for Tokayev to eliminate a form of "dual power" resulting from the fact that the former President of the RK, Nursultan Nazarbayev, retained key state positions and the chairmanship of the Nur-Otan party. Only the removal of Nazarbayev from the decision-making process and the replacement of apparatus allowed Tokayev to carry out the constitutional reform.

The scope of the reform in normative terms is significant, considering the entrenched super-presidential system that had previously characterised Kazakhstan's political order. As a result of the reform, a single seven-year presidential term without

[32] OSCE, *Kazakhstan's Early Presidential Election Lacked Competitiveness and, While Efficiently Prepared, Underlined Need for Further Reforms, Observers Say*, https://www.osce.org/odihr/elections/531812 (access: 25.10.2023).

[33] M. Popławski, *Wzmocnienie Tokajewa: wybory parlamentarne w Kazachstanie*, "Analizy Ośrodka Studiów Wschodnich", 30.3.2023.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 26/11/2026 22:30:27

the possibility of re-election was introduced, together with a prohibition on party membership during the term of office, while the powers of the President were partially curtailed. In turn, the position of the Parliament of the RK was strengthened, primarily by changing the electoral law and facilitating the participation of independent candidates, as well as strengthening the legislative function of the legislature. However, the constitutional reform did not transform Kazakhstan's system of government from a super-presidential to a presidential one. As a result, the decisions taken did not lead to a consistent separation of powers or a system of checks and balances, continuing to ensure the dominance of the President of the Republic of Kazakhstan within the state system. It should also be noted that significant progress was achieved in the protection of human rights and freedoms, primarily through the abolition of the death penalty, the democratization of electoral law, and the establishment of the right to file a constitutional complaint. Nevertheless, the scale of violations that occurred during the constitutional referendum and the presidential and parliamentary elections of 2022 and 2023 demonstrates that mechanisms characteristic of authoritarian governance continue to persist in Kazakhstan.

REFERENCES

Literature

Antoszewski A., Herbut R., *Systemy polityczne współczesnego świata*, Gdańsk 2001.

Bayniyazov B., *Konstitutsionnyy Sovet Respubliki Kazakhstan: teoretiko-pravovoy analiz*, "Vestnik Kazakhstansko-Amerikanskogo svobodnogo universiteta" 2011, no. 4.

Bisztyga A., *Pozycja ustrojowa, organizacja i kompetencje Rady Konstytucyjnej Republiki Kazachstanu*, "Przegląd Prawa Konstytucyjnego" 2014, no. 2.
DOI: https://doi.org/10.15804/ppk.2014.02.03

Bodio T., Mołdawa T., *Konstytucje państw Azji Centralnej. Tradycje i współczesność*, Warszawa 2007.

Borisov N.A., *Prezidentstvo na postsovetskom prostranstve. Protsessy genezisa i transformatsii*, Moscow 2018.

Chebotarev A., *Kazakhstan – 2020: bor'ba s koronavirusom i novyye reformy. Analiticheskiy doklad*, Nur-Sultan 2021.

Dziemidok-Olszewska B., *Instytucja prezydenta w państwach Europy Środkowej i Wschodniej*, Lublin 2003.

Górecki W., *Pierestrojka Tokajewa. Kazachstan wobec wyzwań wewnętrznych i zewnętrznych*, "Komentarze Ośrodka Studiów Wschodnich" 2022, no. 456.

Marszewski M., Strachota K., *Kazachstan: kontrolowana sukcesja*, "Analizy Ośrodka Studiów Wschodnich", 20.3.2019.

Popławski M., *Wzmocnienie Tokajewa: wybory parlamentarne w Kazachstanie*, "Analizy Ośrodka Studiów Wschodnich", 30.3.2023.

Strachota K., *Eskalacja protestów w Kazachstanie*, "Analizy Ośrodka Studiów Wschodnich", 5.1.2022.

Szukalski J., *Dwa lata prezydentury Kasym-Żomarta Tokajewa. Kontynuacja i reformy*, [in:] *Kazachstan – 2021. Sytuacja wewnętrzna i pozycja międzynarodowa Republiki Kazachstanu w 30. roku niepodległości*, ed. W. Sokołowski, Warszawa 2021.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 26/11/2026 22:30:27

Szukalski J., *Instytucja Pełnomocnego Rzecznika ds. Praw Człowieka w Kazachstanie w ujęciu normatywnym*, [w:] *Z prawem ustrojowym porównawczym przez ponad półwiecze. Księga jubileuszowa dedykowana Profesorowi Marianowi Grzybowskiemu z okazji 55-lecia pracy naukowej*, eds. B. Przywora, A. Rogacka-Łukasik, K. Skotnicki, Częstochowa 2022.

Szymanek J., *Konstytucyjne wyznaczniki pozycji ustrojowej parlamentu w przestrzeni poradzieckiej: casus Azji Centralnej*, "Studia Prawnicze" 2008, no. 2.
DOI: https://doi.org/10.37232/sp.2008.2.1

Udarcev C.F., *Konstitucionnaya reforma 2022 goda v Kazahstane: korrektipovka modeli gosudarstva, ukreplenie pravozashchitnyh mehanizmov posle massovyh besporyadkov vystuplenij nachala goda*, "Gosudarstvenno-pravovye issledovaniya" 2022, no. 5.

Online sources

Abayeva A., *Kak korruptsiya unichtozhayet sudebnuyu sistemu Kazakhstana*, https://adyrna.kz/ru/post/131919 (access: 21.10.2023).

Akkuly S.-H., *Do vyborov Nazarbayev obeshchal nezavisimost' sudov, a posle vyborov – lish' ikh effektivnost'*, https://rus.azattyq.org/a/court_independence_kazakhstan_/9502248.html (access: 21.10.2023).

Beloborodov A., *Kompleksnyye reformy. V Kazakhstane sovershenstvuyetsya zakon o vyborakh*, https://aif.ru/politics/world/kompleksnye_reformy_v_kazahstane_sovershenstvuetsya_zakon_o_vyborah (access: 13.10.2023).

Central Election Commission of the Republic of Kazakhstan, *Ob itogakh golosovaniya na respublikanskom referendume 5 iyunya 2022 goda*, https://www.election.gov.kz/rus/news/acts/index.php?ID=7120 (access: 19.10.2023).

Chebotaryov A., *Konstitucionnaya reforma-2022: ot anonsa k realizacii*, http://www.alternativakz.com/index.php?nid=468 (access: 6.5.2026).

Dovgolenko A., *Vpechatlyayushchiy tranzit. Itogi pervogo goda reform v Kazakhstane*, https://www.ng.ru/cis/2020-06-05/100_121205062020.html (access: 12.10.2023).

Mikhaylov V., *„Tokayev i Nazarbayev – lyudi odnoy komandy". Mozhno li govorit'o „yarostnoy bor'be" dvukh liderov i chto seychas proiskhodit v Kazakhstane*, https://www.currenttime.tv/a/tokaev-i-nazarbaev-lyudi-odnoy-komandy-mozhno-li-govorit-o-yarostnoy-borbe-dvuh-liderov-i-chto-seychas-proishodit-v-kazahstane/31659583.html (access: 17.10.2023).

Nurseitova T., *Prezidentskie reformy i budushchee politicheskoj sistemy Kazahstana – ehkspertnoe mnenie*, https://www.zakon.kz/stati/6014798-prezidentskie-reformy-i-budushchee-politicheskoi-sistemy-kazakhstana-ekspertnoe-mnenie.html (access: 6.5.2026).

Olędzki J., *Styczniowa rebelia. Wydarzenia w Kazachstanie i reakcja na nie Rosji, Chin i państw Azji Centralnej*, https://instytutboyma.org/pl/styczniowa-rebelia-wydarzenia-w-kazachstanie-i-reakcja-na-nie-rosji-chin-i-panstw-azji-centralnej (access: 16.10.2023).

OSCE, *Kazakhstan's Early Presidential Election Lacked Competitiveness and, While Efficiently Prepared, Underlined Need for Further Reforms, Observers Say*, https://www.osce.org/odihr/elections/531812 (access: 25.10.2023).

OSCE/ODIHR, *Kazakhstan, Referendum, 5 June 2022: Final Report*, 6.10.2022, https://www.osce.org/odihr/elections/528006 (access: 20.10.2023).

Plaçais A., *Kazakhstan Ratifies the Second Optional Protocol to the ICCPR*, https://worldcoalition.org/2022/04/01/kazakhstan-ratifies-the-second-optional-protocol-to-the-iccpr (access: 15.10.2023).

President of the Republic of Kazakhstan, *Message from the Head of State Kassym-Jomart Tokayev to the People of Kazakhstan*, https://www.akorda.kz/ru/poslanie-glavy-gosudarstva-kasym-zhomarta-tokaeva-narodu-kazahstana-1623953 (access: 17.10.2023).

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 26/11/2026 22:30:27

Vajda M., *Novaya politicheskaya real'nost'. Kak prezidentskie reformy menyayut Kazahstan?*, https://qmonitor.kz/politics/5502 (access: 6.5.2026).

Vayskopf A., *Prezident Tokayev stal yedinolichnym liderom Kazakhstana*, https://www.dw.com/ru/tokaev-stal-glavoj-pravjashhej-partii-i-edinolichnym-liderom-kazahstana/a-60594969 (access: 17.10.2023).

Legal acts

Konstitutsionnyy zakon Respubliki Kazakhstan ot 5 noyabrya 2022 goda № 153-VII «O Konstitutsionnom Sude Respubliki Kazakhstan», https://adilet.zan.kz/rus/docs/Z2200000154 (access: 24.10.2023).

Konstitutsionnyy zakon Respubliki Kazakhstan ot 5 noyabrya 2022 goda № 154-VII ZRK «Ob Upolnomochennom po pravam cheloveka v Respublike Kazakhstan», https://adilet.zan.kz/rus/docs/Z2200000156 (access: 24.10.2023).

Konstitutsionnyy zakon Respubliki Kazakhstan ot 5 noyabrya 2022 goda № 156-VII «O vnesenii izmeneniy i dopolneniy v nekotoryye konstitutsionnyye zakony Respubliki Kazakhstan po voprosam realizatsii Poslaniya Glavy gosudarstva ot 16 marta 2022 goda», https://adilet.zan.kz/rus/docs/Z2200000156 (access: 24.10.2023).

Rasporyazhenie Prezidenta Respubliki Kazakhstan ot 28 marta 2022 goda № 293 «O Rabochey gruppe po vyrabotke predlozheniy o vnesenii izmeneniy i dopolneniy v Konstitutsiyu Respubliki Kazakhstan», https://www.akorda.kz/ru/o-rabochey-gruppe-po-vyrabotke-predlozheniy-o-vnesenii-izmeneniy-i-dopolneniy-v-konstituciyu-respubliki-kazahstan-2921340 (access: 17.10.2023).

Ukaz Prezidenta Respubliki Kazakhstan ot 29 marta 2022 goda № 847 «O merakh po realizatsii Poslaniya Glavy gosudarstva narodu Kazakhstana ot 16 marta 2022 goda "Novyy Kazakhstan: put' obnovleniya i modernizatsii"», https://online.zakon.kz/Document/?doc_id=39648047 (access: 18.10.2023).

Ukaz Prezidenta Respubliki Kazakhstan ot 5 maya 2022 goda № 888 «O provedenii 5 iyunya 2022 goda respublikanskogo referenduma», https://online.zakon.kz/Document/?doc_id=36487793&pos=5;-108#pos=5;-108 (access: 18.10.2023).

Zakon Respubliki Kazakhstan ot 20 oktyabrya 2008 goda № 70-IV «Ob Assambleye naroda Kazakhstana» (s izmeneniyami i dopolneniyami po sostoyaniyu na 18.11.2022 g.), https://online.zakon.kz/Document/?doc_id=30352401&show_di=1 (access: 17.10.2023).

Zakon Respubliki Kazakhstan ot 5 iyulya 2018 goda № 178-VI «O Sovete Bezopasnosti Respubliki Kazakhstan» (s izmeneniyami ot 07.02.2022 g.), https://online.zakon.kz/Document/?doc_id=38039248 (access: 17.10.2023).

Zakon Respubliki Kazakhstan ot 25 maya 2020 goda № 336-VI ZRK «O vnesenii izmeneniya i dopolneniy v Zakon Respubliki Kazakhstan O politicheskikh partiyakh», https://online.zakon.kz/Document/?doc_id=33966664 (access: 14.10.2023).

Zakon Respubliki Kazakhstan ot 8 iyunya 2022 goda «O vnesenii izmeneniy i dopolneniy v Konstitutsiyu Respubliki Kazakhstan» (prinyat na respublikanskom referendume 5 iyunya 2022 goda), https://adilet.zan.kz/rus/docs/Z220000001K/links (access: 20.10.2023).

ABSTRAKT

Przedmiotem opracowania jest reforma konstytucyjna w Kazachstanie w okresie prezydentury Kasym-Żomarta Tokajewa. Reforma ta wpisuje się w podjętą przez Tokajewa liberalizację systemu autorytarnego państwa. Analizie poddano ustawę o wniesieniu zmian i uzupełnień do Konstytucji

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 26/11/2026 22:30:27

Republiki Kazachstanu, przyjętą w drodze referendum 5 czerwca 2022 r. Wśród wprowadzonych na mocy ustawy zmian wskazano przede wszystkim na ograniczenie sprawowania urzędu przez Prezydenta Kazachstanu do jednej siedmioletniej kadencji, wzmocnienie roli Parlamentu, ustanowienie Sądu Konstytucyjnego, możliwość wnoszenia skargi konstytucyjnej, zmianę ordynacji wyborczej w wyborach parlamentarnych oraz zwiększenie samodzielności jednostek samorządu terytorialnego. W konkluzji stwierdzono, że reforma konstytucyjna w Kazachstanie nie doprowadziła do zapowiadanej przez obóz prezydencki zmiany systemu rządów z superprezydenckiego na prezydencki, lecz wzmocniła poziom ochrony praw i wolności jednostki w tym państwie. Artykuł ma charakter nowatorski ze względu na zakres temporalny poruszonej w nim materii.

Słowa kluczowe: Kazachstan; konstytucja; liberalizacja; reforma; prezydent

UMCS