



2020

ANNUAL REPORT
Kazakhstan's Presidency
in the Association of Asian Constitutional Courts and
Equivalent Institutions



Constitutional Council of the Republic of Kazakhstan,
Nur-Sultan, Kazakhstan

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Introduction

In today's realities, characterized by global integration and the transformation of international relations, regional cooperation among States is an effective form of interaction to achieve common goals. As part of this cooperation, the Association of Asian Constitutional Courts and Equivalent Institutions (AACC) was established in 2010 as a regional forum of Asian constitutional review bodies. Last year we celebrated its 10th anniversary.

The main goals of the Association are to promote the development of democracy, the rule of law and fundamental human rights in Asia. The Association operates as an autonomous, independent and non-political body. Its functions are to hold regular meetings of members, organize symposia, seminars and working visits, ensure the exchange of information on the working methods and constitutional case-law, exchange views and ideas on institutional, structural and operational issues related to public law and constitutional jurisdiction.

According to the AACC Statute, the implementation of the above-mentioned activities takes place under the Presidency of the one of the participating countries on a rotating basis. At the Board of Members Meeting, held on November 3, 2019 in Indonesia, Bali, the Constitutional Council of the Republic of Kazakhstan was unanimously elected as the President of the Association for the period 2019-2021. The accession to the post of AACC President coincided with a significant event for the Republic of Kazakhstan - the 25th anniversary of the Constitution of the Republic of Kazakhstan. The IV Congress and other AACC events were held in Nur-Sultan on August 26-27, 2020 and were combined with the celebration of the 25th anniversary of the Constitution of the Republic of Kazakhstan. Due to the COVID-19 pandemic and the restrictions imposed, these meetings were held online for the first time.

Thus, as the Acting President of the AACC, Kazakhstan is making every effort to revitalize the Association's activities, which is characterized by positive dynamics of development and allows its members to jointly seek solutions to common issues in the constitutional and legal sphere.



Statutory events and key decisions

As Acting President of the Association of Asian Constitutional Courts and Equivalent Institutions, the Constitutional Council of the Republic of Kazakhstan is guided by the motto “Dialogue, partnership, consensus and success”.

During its Presidency of the Association in 2020, the Constitutional Council of the Republic of Kazakhstan held the following events:

- 1. Meeting of the Secretaries General;**
- 2. Board of Members Meeting;**
- 3. IV Congress of the Association.**

It should be noted that the worldwide epidemiological situation of the coronavirus pandemic has made it impossible to carry out protocol activities in the usual format. Thus, considering current challenges and realities, Kazakhstan organized them using digital technologies.

1. Online Meeting of the Secretaries General was held on August 26, 2020 and chaired by Mr. Bakyt Nurmukhanov, the Secretary General of the Constitutional Council of the Republic of Kazakhstan and Head of the AACC Host Secretariat, with the participation of delegations from 17 countries.

At the opening of the meeting, the President of the AACC, Chairman of the Constitutional Council of the Republic of Kazakhstan, Mr. Kairat Mami, made a welcoming speech.

The delegations discussed draft amendments to the Statute and other documents planned for adoption at the Board of Members Meetings, the accession of new members to the Association, as well as the activities of the Permanent Secretariats of the organization based in Indonesia, Korea and Turkey. In addition, the parties exchanged views on the content of the Association’s final document, planned to be approved by the results of the IV Congress.



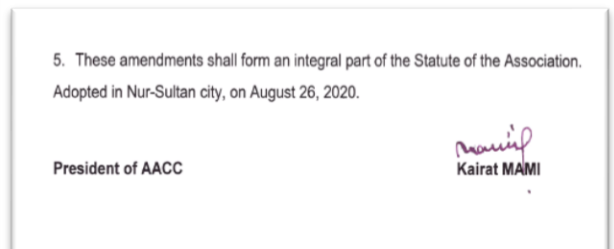
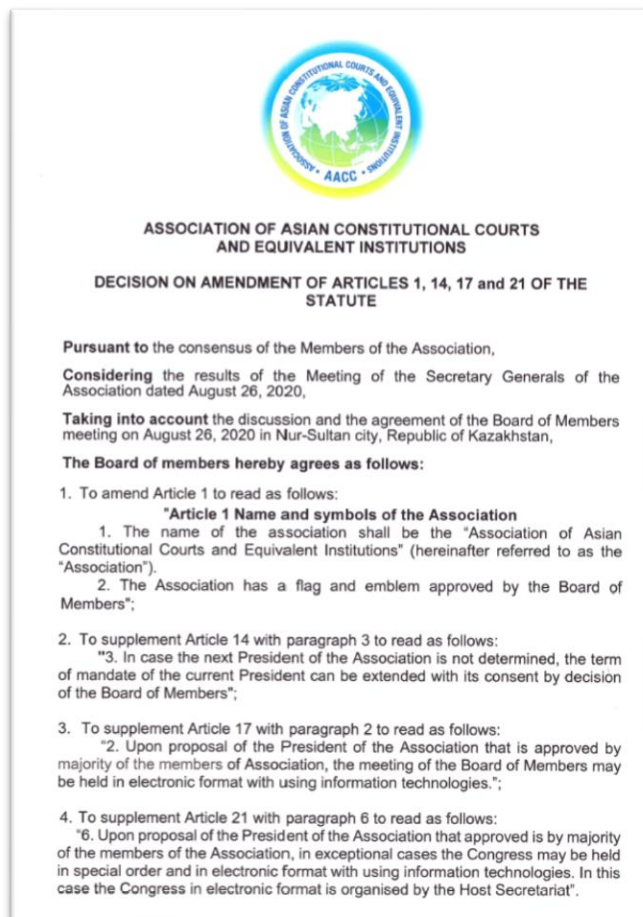
2. Board of Members Meetings were held online on August 26 and 27, 2020 and chaired by Mr. Kairat Mami, Chairman of the Constitutional Council of the Republic of Kazakhstan and Acting President of the AACC. As a result of constructive interaction, the following decisions were taken by the meeting participants:

• Amendments to the Statute

Taking into account the experience of past years and modern challenges, the Constitutional Council of the Republic of Kazakhstan proposed to amend and supplement the Statute of the organization.

The Association's symbols - flag and emblem - were designated in the Statute. A mechanism for resolving uncertainty with the future President of the Association in special situations is envisaged. If the next President of the Association is not determined, then the term of mandate of the Acting President of the Association, with his consent, can be extended by the decision of the Board of Members.

In addition, it was established that upon the proposal of the President of the Association, supported by the majority of the members of the Association, the Board of Members Meeting and the Congress could be held in electronic format using information technologies. This addition is very relevant in the current epidemiological situation in the world. The events held by the Constitutional Council online confirmed the relevance of these amendments.



• Accession to the Association of the Supreme Court of Bangladesh

The principle of openness of the Association, and, consequently, the possibility of its expansion are set out in the organization's Statute. The Supreme Court of Bangladesh has expressed interest in joining the AACC.

The Constitutional Council of the Republic of Kazakhstan received the necessary information and documents from the Secretariat for Planning and Coordination in Indonesia, which carried out significant preparatory work.

The application of the Supreme Court of Bangladesh was supported by almost all members of the Association. Mr. Hossain, the President of the Supreme Court of Bangladesh, thanked everyone for their trust and assured that he would make every effort to achieve the goals of the Association.



• **Signing the Memorandum of Understanding with Eurasian Association of Constitutional Review Bodies**

The promotion of the Association's cooperation with other international and regional bodies is among the priorities of the Constitutional Council as President of AACC. As President of the Eurasian Association of Constitutional Review Bodies, the Constitutional Council of Kazakhstan initiated the signing of the Memorandum of Understanding with the Association of Asian Constitutional Courts and Equivalent Institutions.

On the air the President of the Association signed the Memorandum on behalf of the AACC. On the part of the Eurasian Association the Memorandum was signed by the Chairman of the Constitutional Chamber of the Supreme Court of the Kyrgyz Republic Mr. Karybek Duysheev. The signing of this document will contribute to the intensification of cooperation between associations with the aim of promoting generally recognized

constitutional values, maintaining a constant dialogue and exchange of experience on ensuring the supremacy of the Constitution.



The Reports of the Permanent Secretariats based in Indonesia, Korea and Turkey were also presented at the Board of Members Meetings and Meeting of the Secretaries General.





In addition, the issues of Association's participation in V Congress of the World Conference on Constitutional Justice were discussed at the Board of Members Meeting. The AACC members unanimously expressed their support for the candidacy of the Constitutional Court of the Republic of Indonesia as the host institution of the 5th Congress of the WCCJ in 2022.

Furthermore, The Chief Justice of the Constitutional Court of Mongolia Mr. Chinbat Namjil confirmed his intention to assume the Presidency in August 2021.

The Board of Members expressed confidence that the Presidency of the Constitutional Court of Mongolia would be successful and fruitful.



3. IV Congress of the Association of Asian Constitutional Courts and Equivalent Institutions

The Constitutional Council of the Republic of Kazakhstan, assuming the role of the President of the Association at the Board of members Meeting on November 3, 2019 in Indonesia, Bali, expressed its readiness to hold the IV Congress in August 2020, coincided with the 25th anniversary of the Constitution of the Republic of Kazakhstan.

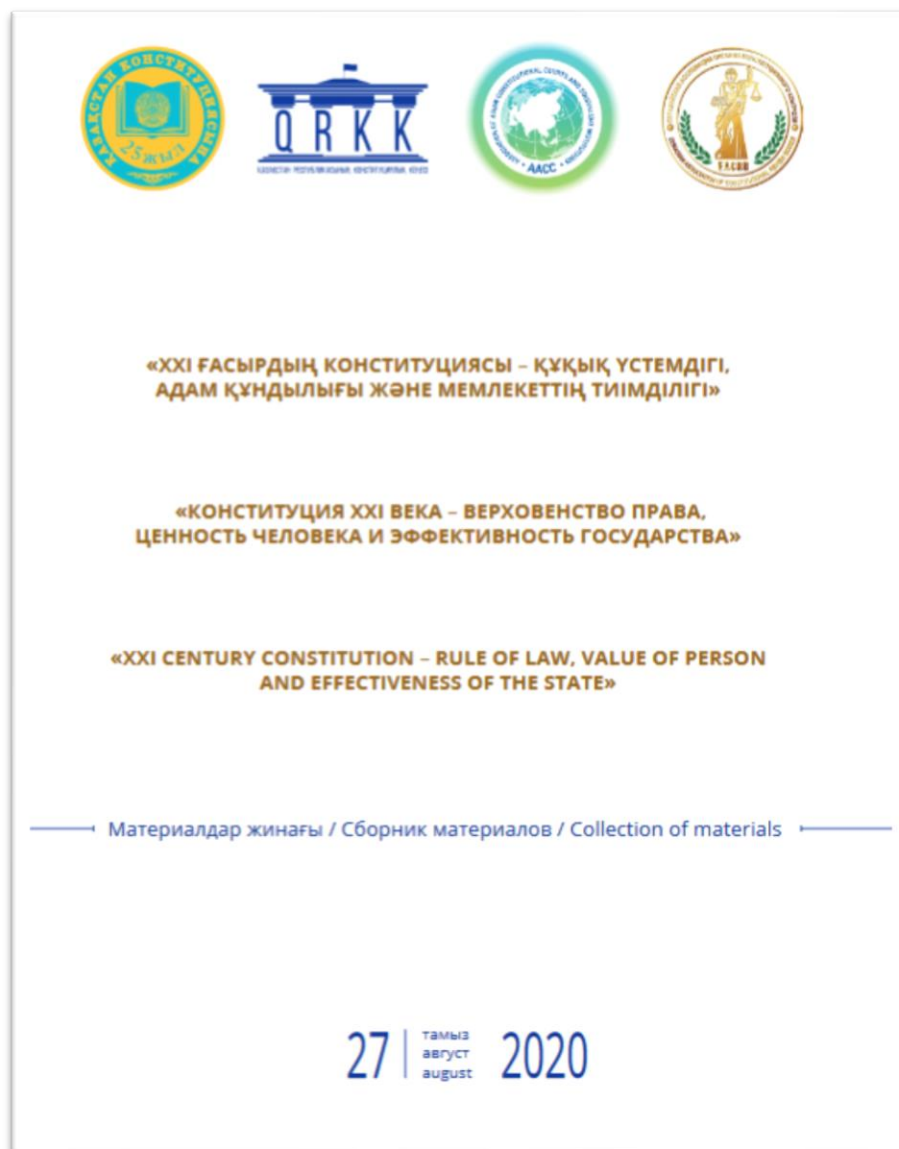
The Constitutional Council of Kazakhstan carried out proper preparatory work for the IV Congress of the Association. This process included the following steps:

- preparation of information materials about the upcoming Congress, creation of the Association section on the website of the Constitutional Council;



- sending of invitations to the Congress participants in advance;
- preparation of the agenda and program of the Congress;
- technical support of the forum (selection of an online platform, test connections of members, etc.);
- preparation of special materials about the Congress (video clip, badge, flag, medal, press releases, minutes, draft documents, etc.);
- preparation and publication of the Collection of materials of the IV Congress with subsequent distribution to the AACC member countries through diplomatic channels, as well as its placement in electronic format on the website of the Constitutional Council of the Republic of Kazakhstan (<http://ksrk.gov.kz/>).





Following the results of the preparatory work, the IV Congress entitled “XXI Century Constitution – the Rule of law, the Value of Person and Effectiveness of the State” was held online on August 27, 2020 in the capital of the Republic of Kazakhstan, Nur-Sultan. It was attended by AACC members, representatives of state organizations of Kazakhstan, authoritative international organizations, constitutional review bodies of foreign countries and prominent academics and public figures. The international Forum was opened by Chairman of Constitutional Council Kairat Mami, who emphasized the importance of the Congress for the development of the Association and strengthening cooperation between its members.



The President of the Republic of Kazakhstan Mr. Kassym-Jomart Tokayev made a welcoming speech in the plenary session. The Head of state noted that this year marks the 25th anniversary of the Constitution of Kazakhstan. The Constitutional Council plays an important role in implementing the provisions of the Basic Law. This year, the Constitutional Council of Kazakhstan chairs the Association of Asian Constitutional Courts and the Eurasian Association of Constitutional Review Bodies. It is symbolic that the Council's implementation of such prestigious and responsible missions coincides with the anniversary year.



Kairat Mami read out the welcoming speech of the First President of the Republic of Kazakhstan - Elbasy Mr. Nursultan Nazarbayev. It states that “the Basic Law established a fair and balanced combination of the achievements of world civilization and Kazakhstan’s values, and became the foundation of the State structure’s pyramid. Having chosen a strategy for the progressive development of the country for the benefit of the whole society, all these years we have been following the unconditional adherence to the spirit and letter of the Constitution”.

Foreign guests also made welcoming speeches: Mr. Gianni Buquicchio - President of the European Commission for Democracy through Law of the Council of Europe (Venice Commission), Mr. Zholymbet Baishev - Chairman of the Court of the Eurasian Economic Union, Ms. Frauke Bachler - General Director of the German Foundation for International Legal Cooperation and Mr. György Szabó - Head of the OSCE Programme Office in Nur-Sultan. The Congress program consisted of three sessions dedicated to the role of the Constitution in ensuring the rule of law, protection of constitutional human rights and democratic values in the digital transformation era, as well as the constitutional principles of modernization of a modern and efficient state.



Leading lawyers from all over the world discussed topical issues of further constitutional and legal development, including the coronavirus pandemic. They represented such international bodies as the OSCE, the Council of Europe, the Venice Commission, the World Conference on Constitutional Justice, the EAEU Court, the German Foundation for International Legal Cooperation, the German Society for International Cooperation and others. Among the speakers were the heads of the constitutional justice bodies of Azerbaijan, Afghanistan, Armenia, Belarus, Bulgaria, Germany, Georgia, India, Indonesia, Korea, Kyrgyzstan, Latvia, Malaysia, Maldives, Mexico, Myanmar, Moldova, Mongolia, Pakistan, Poland, Russia, Tajikistan, Thailand, Turkey, Uzbekistan and Ukraine.



As a result of the Congress, according to the Statute of the Association, the **Nur-Sultan Declaration** was adopted. In closing the Meeting, the President of the Association noted that by joint efforts we would continue to develop the Association, the potential of which ultimately serves to strengthen the rule of law in our countries and beyond.



**NUR-SULTAN DECLARATION OF THE FOURTH CONGRESS
OF THE ASSOCIATION OF ASIAN CONSTITUTIONAL COURTS AND
EQUIVALENT INSTITUTIONS**

We, the Members of the Association of Asian Constitutional Courts and Equivalent Institutions (hereinafter - AACC), held the Fourth Congress on 27 August, 2020 in Nur-Sultan, Republic of Kazakhstan, under the general theme "The XXI Century Constitution – the Rule of Law, the Value of Person and the Effectiveness of the State".

Eventhough for the first time, the AACC Congress was held via video conference, it was still met with great enthusiasm and it was attended by delegates of the constitutional courts and equivalent institutions of the AACC members-states, as well as representatives of international organizations and other groups of constitutional courts / institutions based on a regional or linguistic principle as observers and guests. The Congress provided everyone a wonderful opportunity to exchange experience and fruitful discussions on topical issues related to the establishment of the rule of law, mechanisms for the promotion and protection of constitutional rights of citizens, the role of constitutional courts and equivalent institutions in this process, as well as modernization of the state in response to modern challenges, in particular connected to the COVID-19 pandemic.

Considering the achievements of the past years and following the conclusions of this Congress, we declare the following:

1. We reaffirm that the Constitution is the Basic Law of the State. In an era of global changes and digital transformation ensuring the supremacy of the Constitution and the principle of the rule of law, strict adherence to its provisions, raising the level of the constitutional culture of society are indispensable conditions for the civilized and progressive development of any state that has embarked on the path of democratic modernization.

2. We believe that bodies of constitutional review play an important role in the implementation, development and protection of constitutional values.

Our common goal is to ensure the rule of law, protect human rights and the democratic foundations of society.

3. We recognize that modern challenges associated with the outbreak COVID-19 virus, as declared a pandemic by the World Health Organization, have raised the need for a deep understanding of the international and national legal framework in terms of increasing their effectiveness in preventing and eliminating this threat.

We are confident that the improvement of legal mechanisms for ensuring the rights and implementation of the duties of citizens in such situations and the formation of safe conditions for the life of society including the intensification of digital technologies usage in the administration of justice are of importance.

In addition, we express our common solidarity and readiness to support each other in this temporary difficult period and make every effort to preserve the inviolability of the most important legal values through the instruments of constitutional justice.

4. We support the need to further develop cooperation at the international and regional levels with a view to joining efforts in finding answers to global challenges, in particular, climate changes, that have a serious impact on democratic principles, the protection of human rights and the rule of law. For that purpose we express our interest in considering enhancing cooperation with European Commission for Democracy through Law of the Council of Europe (Venice Commission), the World Conference on Constitutional Justice (WCCJ), other regional and linguistic groups of constitutional courts and equivalent institutions. This interest includes a full support for AACC members who are willing to be the host of upcoming WCCJ Congress or other global forum. We also express our support to such fundamental principles of international law as inadmissibility of violation of territorial integrity, inviolability of borders and peaceful resolution of conflicts.

5. The AACC unanimously supports the Constitutional Court of the Republic of Indonesia's offer to host the 5th Congress of WCCJ in 2022.

6. The AACC is open for accession to the constitutional control bodies of Asian countries that share the goals of the Association. We call on other constitutional courts and equivalent institutions in Asia to join us and jointly address the challenges of upholding the principles of constitutionalism in the region. In this connection, we welcome the accession to AACC of the Supreme Court of Bangladesh.

7. Expressing our sincere appreciation to the Constitutional Council of the Republic of Kazakhstan for the successful holding of the Fourth Congress of the AACC, the Board of Members welcomes the continuation of Kazakhstan's presidency over the coming year.

Adopted on this Twenty Seventh Day of August in the Year Two
Thousand and Twenty in Nur-Sultan, Kazakhstan

President of AACC


Kairat MAMI

Conclusion

Summing up the results of the first year of the Presidency of the Constitutional Council of the Republic of Kazakhstan in the Association of Asian Constitutional Courts and Equivalent Institutions, it should be noted that in 2020, despite the challenges, it was possible to carry out the main activities in accordance with the Association's Statute.

The Presidency in 2020 was held during the COVID-19 pandemic declared by the World Health Organization.

Mutual support of the AACC members, close cooperation between the Host Secretariat and the Permanent Secretariats, and digital technologies made it possible to ensure the smooth functioning of the Association and the timely implementation of statutory events.

A wide range of topics and issues were covered at the meeting of the Secretaries General, the Board of Members Meetings and the IV Congress of the Association, which contributed to the exchange of knowledge and experience in the field of constitutional control, the development of democracy and the establishment of the rule of law, especially in the face of modern challenges.

Guided by the strategic guidelines of the Association, Kazakhstan's Presidency will continue to strengthen further the AACC and its potential in the Asian region. We will focus our efforts on building and supporting a sustainable, continuous and fruitful dialogue with the AACC member countries to successfully fulfill its mission.