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## THE PLACE OF NORMATIVE RESOLUTIONS OF THE SUPREME COURT IN THE FIELD OF CRIMINAL LAW

This study seeks to investigate the impact and relevance of Supreme Court normative decrees in criminal law practice in Kazakhstan. Our objective is to explore their influence on law enforcement practices as well as harmonization between national laws and international standards. Among the primary directions of inquiry lies theoretical analysis of legal nature decrees as well as historical development studies and comparative legal research.

Scientific and practical significance of this work lies in its comprehensive examination of how normative decrees affect uniform judicial practice and law enforcement stability. Research methodology included content analysis, comparative legal method interpretation legal interpretation as well as statistical analysis.

The primary findings of this research indicated that normative decrees of the Supreme Court play an essential role in shaping law enforcement practices and guaranteeing uniform and stable interpretations of criminal law. These findings underscore the necessity of further aligning Kazakhstani legislation with international standards to enhance law enforcement efficiency and promote human rights protection.

Research's value lies in filling gaps in existing literature and offering recommendations to enhance law enforcement practices in Kazakhstan. Practical applications of research results include their potential use by judges, lawyers, and others practicing criminal law.

**Key words:** normative resolutions of the Supreme Court, normative legal act, sphere of criminal law, legal institute, concept of normative resolution.

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### Жоғары соттың нормативтік қаулыларының қылмыстық құқық саласындағы орны

Бұл зерттеу Жоғарғы Соттың нормативтік қаулыларының Қазақстандағы қылмыстық-құқықтық практикаға әсері мен маңыздылығын зерттеуге бағытталған. Біздің мақсатымыз-олардың құқық қолдану практикасына әсерін, сондай-ақ ұлттық заңнаманы халықаралық стандарттармен үйлестіруді зерттеу. Зерттеудің негізгі бағыттарының қатарына қаулылардың құқықтық табиғатын теориялық талдау, сондай-ақ тарихи дамуды зерттеу және салыстырмалы құқықтық зерттеулер жатады.

Жұмыстың ғылыми және практикалық маңыздылығы нормативтік қаулылардың сот практикасының біркелкілігіне және құқық қолдану тұрақтылығына қалай әсер ететінін жан-жақты қарастыру болып табылады. Зерттеу әдістемесі мазмұнды талдауды, құқықтық нормаларды түсіндірудің салыстырмалы-құқықтық әдісін, сондай-ақ статистикалық талдауды қамтыды.

Зерттеудің негізгі нәтижелері Жоғарғы Соттың нормативтік қаулылары құқық қолдану практикасын қалыптастыруда және қылмыстық заңның біркелкі және тұрақты түсіндірілуін қамтамасыз етуде маңызды рөл атқаратынын көрсетті. Бұл тұжырымдар құқық қолдану

арттыру және адам құқықтарын қорғауға жәрдемдесу үшін қазақстандық заңнаманы одан әрі халықаралық стандарттарға сәйкес келтіру қажеттігін көрсетеді.

Зерттеудің құндылығы қазіргі әдебиеттегі олқылықтардың орнын толтыру және Қазақстанда құқық қолдану практикасын жетілдіру бойынша ұсыныстар беру болып табылады. Зерттеу нәтижелерін практикалық қолдану-бұл судьялардың, адвокаттардың және қылмыстық құқық саласындағы басқа адамдардың оларды пайдалану мүмкіндігі.

**Түйін сөздер:** Жоғарғы Соттың нормативтік қаулылары, нормативтік құқықтық акт, қылмыстық құқық саласы, құқық институты, нормативтік қаулы түсінігі.

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### Место нормативных постановлений Верховного Суда в области уголовного права

Данное исследование направлено на изучение влияния и значимости нормативных постановлений Верховного суда на уголовно-правовую практику в Казахстане. Наша цель – изучить их влияние на правоприменительную практику, а также гармонизацию национального законодательства с международными стандартами. Среди основных направлений исследования – теоретический анализ правовой природы постановлений, а также изучение исторического развития и сравнительно-правовые исследования.

Научная и практическая значимость работы заключается в комплексном рассмотрении того, как нормативные постановления влияют на единообразие судебной практики и стабильность правоприменения. Методология исследования включала контент-анализ, сравнительно-правовой метод толкования правовых норм, а также статистический анализ.

Основные результаты исследования показали, что нормативные постановления Верховного суда играют важную роль в формировании правоприменительной практики и обеспечении единообразного и стабильного толкования уголовного закона. Эти выводы подчеркивают необходимость дальнейшего приведения казахстанского законодательства в соответствие с международными стандартами для повышения эффективности правоприменения и содействия защите прав человека.

Ценность исследования заключается в восполнении пробелов в существующей литературе и предложении рекомендаций по совершенствованию правоприменительной практики в Казахстане. Практическое применение результатов исследования заключается в возможности их использования судьями, адвокатами и другими лицами, практикующими в области уголовного права.

**Ключевые слова:** нормативные постановления Верховного суда, нормативный правовой акт, сфера уголовного права, правовой институт, понятие нормативного постановления.

## Introduction

According to Article 81 of the Constitution of Kazakhstan, “the Supreme Court is the highest judicial body in all civil, criminal, administrative, and other cases within its jurisdiction arising out of local courts. When required by law it reviews cases brought before its jurisdiction as well as provides clarifications regarding issues of judicial practice.” (<https://www.akorda.kz/en/constitution-of-the-republic-of-kazakhstan-50912>)

Given Kazakhstan’s rapid progress of criminal law development, Supreme Court decisions play a pivotal role in shaping law enforcement practice. Thus, this study’s topic was chosen with care – al-

though considerable prior research had already been conducted into criminal law and law enforcement, impact analysis regarding regulatory decisions has yet to be thoroughly researched in relation to their impact on judicial practice and criminal legislation development remains lacking.

Relevance of this topic is determined by various factors. First and foremost is its impactful decisions from the Supreme Court on law enforcement practice, providing uniformity and stability when handling criminal cases. Second, Kazakhstan’s existing legislative framework needs constant evaluation and adaptation to meet modern conditions, making this research topic especially significant. Thirdly, as part of globalization and integration processes Kazakh-

stan must adhere to international standards and approaches regarding criminal law; for this to occur requires in-depth analyses of regulatory decisions made by its highest judicial body.

This research investigates the normative decisions of the Supreme Court of Kazakhstan in criminal law and their impact and relevance to law enforcement practice.

This study seeks to examine and assess the significance of Supreme Court normative decisions for shaping and developing criminal law practice in Kazakhstan.

Methodologically, this research incorporates both general scientific methods and private scientific practices – such as analysis, synthesis, induction, deduction – as well as comparative legal analysis and the method of legal interpretation.

This study tests the hypothesis that normative decisions from Kazakhstan's Supreme Court play an essential role in maintaining uniform and stable law enforcement practice within criminal law, thus contributing to harmonization between national law and international standards.

Scientific articles are valuable because their results can be used in further scientific developments as well as the everyday activities of judges, lawyers and other specialists in criminal law. Thus, an examination of how Supreme Court normative decisions influence criminal law is both timely and significant in contributing to Kazakhstan's theoretical and practical development of criminal law.

### **Research methodology**

This study is grounded on an analysis of regulatory decisions of the Supreme Court of Kazakhstan in criminal law. To facilitate our research, materials examined include texts published as resolutions in official sources over two decades – an approach that allows us to gain representative data while assuring reliability of conclusions drawn.

Regulatory decisions of the Supreme Court of Kazakhstan play a vital role in maintaining uniform and stable law enforcement practices related to criminal law, helping ensure harmonization between domestic legislation and international standards.

Content analysis is one of the key methods utilized in this research. It involves conducting an in-depth examination of normative decisions from the Supreme Court of Kazakhstan to identify legal provisions and their changes; using this approach allows scholars to not only detect important legal norms but also monitor their development over time.

Comparative legal analysis was employed to analyze Kazakhstani regulatory decisions within the context of international standards and approaches in criminal law. Using this method enabled us to ascertain the degree to which Kazakhstan's law enforcement conformed with international norms as well as identify areas needing improvement.

Legal interpretation involved interpreting legal norms contained in regulatory decisions to identify their law enforcement significance. This technique allowed for greater insight into how rulings impact judicial practice and any legal consequences they produce.

Statistics were employed to process quantitative data, which enabled law enforcement practitioners to detect trends and patterns within law enforcement practices.

Utilizing an integrative approach and various methods of analysis allowed us to perform an exhaustive examination of the place of normative decisions of the Supreme Court in criminal law. Content analysis, comparative legal method, legal interpretation method and statistical analysis provided an in-depth understanding of the problem under study and allowed us to draw reasonable conclusions about the importance of regulatory decisions for law enforcement practice in Kazakhstan.

This study revealed that regulatory rulings of the Supreme Court of Kazakhstan significantly impact law enforcement practices, providing consistency in interpretation and application of criminal legislation. A comparative analysis has shown that many provisions of Kazakh regulations comply with international standards; however there remain areas that need further harmonization.

Utilising an integrated approach and various methods of analysis enabled a thorough investigation of the place of Supreme Court decisions in criminal law and their relevance for law enforcement practices in Kazakhstan.

### **Literature review**

This article utilized literature by both domestic and foreign authors, making it possible to comprehensively explore its topic of investigation. Key works that examine regulatory rulings' role in law enforcement were considered alongside modern research analyzing practice of issuing rulings under various legal systems.

Domestic sources included works on constitutional and criminal law of Kazakhstan, exploring the role of Supreme Court decisions in upholding

direct effect of the Constitution (Baishev Zh.N., Sapargaliev G.S.), implementation issues related to constitutional implementation as well as procedural and theoretical aspects of legislation interpretation (Kerimov D.A., Abdrasulov E.B.). These sources have made an invaluable contribution towards understanding legal nature and functions of regulatory decisions within Kazakh law.

Foreign sources provided works on legal theory, judicial practice and legal argumentation. These studies provided a theoretical foundation for analyzing court decisions that affected law enforcement, as well as comparison with international standards.

An analysis of literature has revealed that Supreme Court decisions play an essential part in shaping and developing law enforcement practice. Domestic studies underscored their significance as unifying law enforcement efforts while aligning domestic laws with international standards; foreign works also provided valuable methodological approaches and theoretical concepts tailored specifically for Kazakh legal systems.

### Discussion and results

Formation and evolution of normative decisions issued by the Supreme Court have resulted from implementation of dramatic reforms to law in our country. While improving laws has taken place in several other nations, our nation-state was unique due to a low level of legal awareness within its population. At the core of these normative decisions are decisions from the Supreme Court. Over time, this activity of the judicial system has grown more reliable; regulatory decisions from the Supreme Court were instituted and provided for resolution of unlimited legal disputes as part of their duties and status as courts. At its heart lies their responsibility of adjudication disputes as their final product of activities undertaken to do so.

The concept of normative resolution by the Supreme Court derives from Article 4 of the Republic of Kazakhstan Constitution, which mandates such decisions among applicable laws in Kazakhstan.

Article 81 of the Constitution also clarifies the activities of the Supreme Court of Kazakhstan with regards to regular judicial practice for criminal, civil and local criminal convictions (Constitution of the Republic of Kazakhstan, 1995, <https://www.akorda.kz/en/constitution-of-the-republic-of-kazakhstan-50912>)

The Supreme Court of Kazakhstan follows a standard procedure when adopting, amending, ter-

minating or otherwise non-applying normative legal acts issued by it as stipulated by Kazakhstan law on normative legal acts.

According to law, normative decisions of the Supreme Court are recognized as normative legal acts; however, at regulatory legal act level none exist due to an issue outside legal acts established by law – that being that normative legal acts have equal force as those from legislation on which they are interpreted (The Law of the Republic of Kazakhstan «On legal acts», 2016, <https://adilet.zan.kz/eng/docs/Z1600000480>).

As regards sectoral laws, the second part of Article One of the Criminal Code of Kazakhstan serves as the focal point for crime, administration and civil litigation in Kazakhstan in general. This component can be seen as being integrally tied with criminal, administrative and civil legislation respectively within this field of law.

In this area of law, normative legal acts are implemented through the Supreme Court's Constitutionally mandated normative decisions.

If there are discrepancies when applying the laws as written, their interpretation falls to the Supreme Court automatically. Their decisions take into account public relations on a constitutional basis when making rulings that can help resolve them. According to scholar Zh.N. Baishev, the Supreme Court rejects laws designed to regulate such areas as Parliament through their legal system; their primary focus instead being the application of constitutional norms in that context. Parliament, in turn, handles questions and situations regarding legal disputes with border services and familiarizes itself with international legal acts by developing sectoral norms. If necessary for regulation purposes, legislative bodies can adopt relevant rules of Law to manage disputed relationships (Baishev 2008: 115)

V. M. Lebedev identified normative decisions of the Supreme Court as essential tools for upholding fairness of justice, clarifying judicial decisions when legal norms contain elements of uncertainty, and justifying their fairness of administration (Barak 1999: 142).

Most scientists largely share this viewpoint; however, they oppose normative decisions made by the Supreme Court as normative decisions should remain solely within its purview (Kerimov 2002: 93).

Scientist D. A. Keimov advocates against law-making, restricting normative decisions of the Supreme Court to explanatory activities only. Meanwhile, Sapargaliyev G. S. holds similar views but

believes that corrections or distortions to normative decisions exceeding interpretation could constitute new norms that need to be established by court precedents (Sapargaliev 2001a: 117).

One scientist noted that normative decisions of the Supreme Court serve as explanatory tools, despite being labeled normative (Sapargaliev 2002b: 14).

A. S. Pigolkin noted that court decisions are legally binding for everyone; normative decisions from the Supreme Court depend on legal precedent that has been fully discussed and none of their explanations hold legal ground without actual application in practice (Pigolkin 2016)

Domestic scholars agree on one conclusion from domestic scientists' opinions: normative decisions set clear limits to the validity of law, provide full explanations alongside court verdicts, and if an act on which these normative decisions of the Supreme Court are based is repealed, so too are their decisions (Kaudyrov 2020: 93)

Foreign scholars generally hold that Supreme Court normative rulings don't allow for conclusions beyond what's allowed under law; and that he had no personal power to use any ruling as evidence if he so desired (Abdrasulov 2002: 143).

Thus, the primary difference between normative rulings of the Supreme Court and ordinary legal norms lies in their interpretation. Furthermore, this court offers special commentary regarding application of law according to special circumstances and needs. Normative decisions of the Supreme Court contribute to correct differentiation, taking into account all relevant circumstances of pre-trial investigations not only within court cases but also according to criminal law standards.

According to the theory of state and law, one of the powers of judiciary is adjudicatory power; however, many scholars, considering its widespread publicity and common application of normative decisions of the Supreme Court have taken a critical stance against this right by viewing judiciary as the absorption of legislative power by absorption. Their opinions can lead to conflicts of opinions as well as raise suspicion about its Justice.

A.I. Dikhtyar and N. A. Rogozhin argue that the judicial authorities, known as administration of justice, do not accept rights of interpretation, evaluation and comparison beyond what are allowed within their legal system. According to them, normative decisions of the Supreme Court state that commenting without alteration or additions is only available within its contents of laws.

The Supreme Court's normative decision, intended to establish an efficient judicial practice, evaluates and identifies signs of criminality in an exceptional circumstance, distinguishing features apart from legal norms that apply within its application framework.

The Supreme Court's concept of normative legal acts describes concepts not provided for by legal norms (Yurchenko 2009, <https://cyberleninka.ru/article/n/o-yuridicheskoy-prirode-normativnyh-postanovleniy-verhovnogo-suda-respubliki-kazhstan-i-ih-prakticheskoy-primenenii>).

In any legal state, dispute resolution takes into account the practices and views established by courts, as well as scientific work founded on court decisions. All scientific work relies on this judicial practice. Furthermore, legal acts passed by the Supreme Court are essential in correctly distinguishing between facts of offenses by law enforcement officers; due to this act being sent directly to pre-trial investigation and supervisory authorities concerning any breaches with criminal law standards that have led to lower courts rendering decisions against you either amended or annulled altogether.

If the court decision remains unchanged, a pre-trial investigator declares that all norms and requirements have been fulfilled (Ablaeva 2018, <https://cyberleninka.ru/article/n/o-edinoobrazii-sudebnoy-praktiki-v-kazahstane-po-nekotorym-delam-vytekayuschim-iz-publichnyh-pravootnosheniy>).

The adoption of normative rulings by the Supreme Court bears similarities to precedent law in Anglo-Saxon legal systems. An illustration can be drawn in this regard by looking at what happened during one court session in another court session with similar proceedings.

The Supreme Court stands out among normative legal acts by conducting in-depth interpretations of legal norms that pertain to who, when, and why they occur.

Legal acts issued by the Supreme Court have become a primary source of law. Our Romano-German legal system does not take account of decisions from hearings that took place as such; hence analogy decision-making does not occur during trial proceedings.

However, in order to prevent an incorrect differentiation between criminal law norms and other norms, normative decisions by the Supreme Court provide effective functions in this area.

Criminal Procedure Law incorporates normative decisions by both the Constitutional Court and Supreme Court as core elements.

As we review the history of Supreme Court normative decisions, their topics of adoption become apparent. Since 1995, they have provided insights that address specific types of crime.

At its core, this initiative seeks to ensure correct classification of crimes as specified by articles of the Criminal Code and appropriate actions according to pre-trial Criminal Procedure regulations.

Consider, for instance, the following normative resolution issued by the Supreme Court of Kazakhstan on July 21, 1995 and known as n 4” on judicial practice related to theft of firearms, ammunition, weapons or explosives as well as their illegal carrying, possessing, manufacturing and sale, or careless handling.

At its meeting on June 6, the Supreme Court’s purpose was to establish a uniform judicial practice in cases of the highest category; which consisted of 21 parts (Normative Resolutions of the Supreme Court of the Republic of Kazakhstan, 2009: 278)

This resolution must take into account the responsibility of citizens who commit weapons thefts without informing courts and failing to notify of their transfer in court cases; further, citizens who failed in their investigations, mishandle, and/or commit theft without reporting these instances as crimes of serious concern must also be brought to justice.

Investigation was then undertaken, to assess its nature in terms of weapons used and committed crimes by using weapons as the means. An inventory list was made public; under these conditions the perpetrator expressed regret for their crime.

The Supreme Court normative decision outlines ways of stealing firearms, the mechanism used for criminalizing such theft and how crimes are classified and classified. Furthermore, this decision provides insight into specifics related to crime qualifications (Neshataeva T. N., 2017: 256).

As an example, two forms of embezzlement of weapons are legally recognized as embezzlement of firearms. If, after the theft of a large safe or box, it was discovered that there was a weapon within which was left for protection or other reasons, this crime would be recognized as embezzlement of firearms – however repeated instances do not constitute embezzlement of weapons.

Such comments will allow an investigator to more quickly qualify the case during pre-trial investigation and will contribute to creating consistent

practices within relevant cases. It’s clear that judges of courts will see such comments as essential components in creating uniform practices in cases under their scrutiny (<http://www.zakon.kz/4808524-mozhet-li-normativnoe-postanovlenie.html>)

As a result, this enables pre-trial investigations to reach a specific decision on a crime without question from judges, and has produced consistent outcomes in every area of law.

But such an orderly sequence may have negative repercussions in other sectors.

## Conclusion

Normative decisions of the Supreme Court hold immense significance and understanding across society. One of the most revered legal acts, among many, are decisions of this Court; their rulings play an invaluable role.

Normative decisions of the Supreme Court carry equal legal force as those based on rule of law, studying this same set of principles. Their role is essential in society.

At present, normative legal acts of the Supreme Court are recognized as effective deterrents against referral of cases without evidence to court, error-prone application of laws on offenses, and practice of negative law in distant courts.

Criminal law systems benefit greatly from having access to a broad framework of law which is easily identifiable via normative rulings of the Supreme Court. Legal assistance plays an integral part in criminal law systems as a preventative measure for cases that return due to systematic errors caused by differentiation and incorrect application of rule of law, prosecutor acquittal or cancellation of court decisions of first instance; increasing investigatory legal awareness from Supreme Court rulings through investigation stages to court proceedings, while creating a single sequence of court decisions during case consideration processes.

As years go by, however, crime-fighting techniques become more sophisticated and rare crimes increase; therefore, normative decisions from the Supreme Court play an essential role as part of criminal law.

Supreme Court decisions of immediate significance in order to address questions and gaps arising in the criminal court system have become indispensable.

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