THE NEW HOUSING CODE OF THE REPUBLIC OF KAZAKHSTAN

ANATOLII G. DIDENKO
Professor of Law, Chairman of the Civil Law Department of the Law Faculty, “Al’-Farabi” Kazakh State National University, Almaty

On 1 July 1992 the Supreme Soviet of the Republic of Kazakhstan adopted a new Housing Code which entered into force on 1 November 1992 replacing the prior republican Housing Code dating from 1983.¹

It should be noted from the outset that Kazakhstan is the first of the CIS countries to enact such legislation. The housing codes still in force in the remaining CIS countries are quite similar to one another since they were all adopted in accordance with the old all-union Fundamental Principles of Housing Legislation and therefore contain the basic provisions of these Principles.

The new Kazakh Housing Code regulates housing relationships on the basis of those processes and legislative traditions which are beginning to take shape in Kazakhstan as a sovereign state. The new 1992 Code is therefore not an improved version of the prior Housing Code but rather a basic new piece of legislation.

The Housing Code is divided into six parts:

I General provisions
II The right of ownership of citizens to an apartment (residential building)
III Providing citizens with residential accommodation in buildings of the state and collective housing fund
IV Providing citizens with residential accommodation in buildings of housing cooperatives
V The exchange of residential accommodations and the rental (sublease) of residential accommodation
VI The use of service quarters and dormitories

¹ The Russian-language version of the 1992 Kazakh Housing Code as well as a detailed commentary thereon together with appended materials relating to the privatization of housing in Kazakhstan can be found in: A.G. Didenko, Novyi (1992g.) zhilishchnyi kodeks Respubliki Kazakhstan (tekst i kommentarii), Alma-Ata 1992.

In total the new Housing Code contains 132 articles. Below we shall consider some of the legislative innovations that are to be found in the Code.

The housing fund (*zhilishchnyi fond*) of the Republic is split up into individual, collective, housing cooperative and the state housing fund. The latter in turn is divided into municipal, ministerial (e.g., state ministries, agencies, etc.), and housing which belongs to enterprises (*predpriiatiia*). Each of these housing funds has its own unique features as regards the allocation of apartments, the use thereof and eviction therefrom, etc.

The most fundamental moment in the guarantee of housing rights for citizens is the establishment of a rule according to which local administrative agencies may not limit the rights provided for citizens by the Housing Code. In the event that any such norms are nevertheless adopted, they are void ab initio. This provision will become an important tool in the fight against instances where local agencies of power and authority exceed their powers and in doing so they have often limited the rights of citizens in assigning them a place on the waiting list to receive an apartment, to sell their residence, etc.

In the previous Housing Code, there were various provisions as to when housing disputes were to be heard by judicial bodies or by other agencies. Now the issue of the jurisdiction of housing disputes has been clearly resolved: all disputes are to be heard by courts insofar as the Housing Code has not established other procedures for a particular category of conflicts.

Part II of the Housing Code reflects the new approach vis-à-vis rights to housing. At present, relations as regards property rights to an apartment or residential building occupy a central position. In practice the grounds which most often give right to property rights to housing are civil law acts: contracts, the inheritance of an apartment, and the privatization of state apartments.

The document which attests to the ownership of an apartment (residential building) is one previously unknown in prior legislation, *i.e.* a certificate of ownership issued by local executive agencies.

Article 27 of the Housing Code contains a provision unheard of for Soviet people prohibiting limitations on the number of residential buildings or apartments that may be owned by citizens. There is only one restriction on the number of residential buildings that may be enjoyed by a citizen: s/he may only have one apartment in buildings of the state or collective housing fund which, however, does not limit him (or her) from acquiring property rights in other apartments or residential buildings.

Any citizen requiring an improvement in their housing conditions may be assigned a place on a waiting list to receive an apartment from the state or collective housing funds. Persons requiring an improvement are deemed to be those who live in accommodation where each family member has less that 15 square meters of overall space, who live in apartments without amenities, tenants living in dormitories, or other categories of citizens. A list of citizens who require an improvement in their housing conditions is kept at the place