Observatoire ARGA

INTERNATIONAL ANALYTICAL REPORT

D-28. Kazakhstan: Economic Offences and the Use of Detention on Remand

Country Monitoring. A 2026 Snapshot

Author:

Sergey Khrabrykh - President of ARGA, PhD

Organisation: Observatoire ARGA

Correspondence: 21 rue de l’Aviation, 64600 Anglet, France

Contact: info@argaobservatory.org, +33 7 58 49 62 27

Website: www.argaobservatory.org

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1. Principal findings

The legal framework governing detention on remand in economic criminal cases in Kazakhstan cannot be described either as a general prohibition on detaining businesspeople or as an unrestricted power to confine anyone implicated in substantial financial harm. The law imposes several successive conditions: the elements of a specific offence, reasonable suspicion concerning an identified individual, the legal availability of custody for that classification of conduct, and the necessity of that particular measure to prevent established procedural risks. Failure to satisfy any one of these conditions has independent significance. Business status does not replace examination of the elements of an offence, while the statutory availability of custody does not dispense with consideration of alternatives. [2-4]

A central feature of the framework is Article 136(3) of the Criminal Procedure Code (CPC). It restricts custody for offences in the sphere of economic activity, but contains both a list of excluded offences and a reference to cases involving absconding and organised crime. Fraud and misappropriation or embezzlement, however, appear in a different chapter of the Criminal Code (CC). Consequently, the same commercial context can attract a different regime of restrictions on liberty depending on a substantiated, rather than merely asserted, legal classification. Scrutiny of classification is therefore an essential component of the protection of personal liberty. [2-4]

The judicial decisions examined reveal three significant issues: the limits of a civil judgment's effect on criminal proceedings; permissible restrictions under house arrest; and the prohibition of custody without a current judicial basis or beyond applicable limits. Constitutional Court decisions establish the content of legal safeguards and the specific circumstances that prompted constitutional review. They do not constitute a representative sample of all economic cases and provide no basis for calculating the prevalence of violations. [7-9]

Official communications covering 2025 and the first half of 2026 indicate changes in aggregate measures of the use of preventive measures. They do not, however, disclose a separate population of businesspeople, a breakdown by offence charged, or the actual duration of confinement. The principal finding of this monitoring report therefore has two parts: statutory restrictions and judicial mechanisms for correction are documented, while their consistent implementation in economic criminal cases remains only partly observable. The new Constitution, in force since 1 July 2026, changes the current constitutional basis of the analysis but does not, by itself, establish that everyday practice has already changed. [1; 10-11]

2. Subject matter and temporal scope

This report examines the interaction between the legal classification of criminal conduct and preventive measures in Kazakhstan as at 24 September 2026. Its subject is not every form of state intervention affecting business, but the specific relationship between economic charges, risks to criminal proceedings, and restrictions on personal liberty before the case is finally determined. Additional tax assessments, civil recovery, administrative liability and corporate disputes are considered only insofar as they affect the existence of a criminal offence, the evidential basis of suspicion or the choice of preventive measure.

The term “economic case” is used in two distinct senses. In the narrow legal sense, it refers to offences under Chapter 8 of the CC. In the broader research sense, it encompasses criminal proceedings arising from commercial operations, dealings with property, contractual relations or company management. The latter may include Articles 189 and 190 of the CC, but does not automatically extend the special restrictions in Article 136 of the CPC to them. Where the legal outcome depends on this distinction, the relevant category of offences is identified. [2-3]

Detention on remand is also distinguished from initial detention, house arrest and imprisonment as a punishment. Their legal bases, procedures, time limits and purposes differ. The investigation and trial stages are considered separately: a maximum period applicable at one stage cannot be extended to another without examining the relevant rules. This distinction is particularly important when reading the Constitutional Court's decision of 10 June 2026, which concerns the trial stage. [3; 9]

Materials from 2023-2025 are used as sources of applicable interpretation and documented events, rather than as a substitute for the 2026 snapshot. Their constitutional references relate to the version of the Basic Law applicable when the decision was adopted. Half-year figures are not presented as annual results; the absence of data for the remainder of 2026 is not filled by forecasts. Amendments for which consolidated legislation specifies a future commencement date are not treated as rules already in force. [1; 3]

3. Evidence base and limits of observation

The report draws on five groups of primary materials. The first comprises the Constitution and codes defining the legal framework. The second consists of Supreme Court normative resolutions setting out binding judicial interpretation. The third comprises the full texts of Constitutional Court decisions, containing both legal positions and information about the circumstances of applications. The fourth consists of official communications on judicial statistics. The fifth is the International Covenant on Civil and Political Rights as a source of international law. These groups differ in legal authority and research function. [1-12]

A Supreme Court normative resolution establishes how the law should be applied; it does not establish how frequently courts comply with that rule. A constitutional decision permits a reliable account of the circumstances of a particular proceeding established in that decision, but not of the entire underlying criminal case file. An official statistical communication substantiates the published indicator within its stated coverage. Without the underlying reporting form, denominator and counting rules, however, it does not permit independent reconstruction of every component of the series.

A methodological limitation follows: this monitoring report is not a study of a random or exhaustive sample of investigating judges' orders. It does not calculate the frequency of detention under Article 245 of the CC, the median duration of businesspeople's custody or the proportion of successful appeals against such decisions. Those estimates require a different dataset: individual-level records, with repeated entries appropriately addressed, covering persons, applications, extensions, legal classifications and outcomes. Publication of several significant cases does not remove that requirement.

Analytical conclusions are expressed in terms of legal mechanisms rather than unproven prevalence. For example, because special protection depends on the legal classification, the framework is sensitive to how substantively the elements of fraud or a criminal group are examined. That is a finding about the structure of the law, not an assertion that charges are systematically inflated. Likewise, constitutional correction of time-limit rules demonstrates an identified problem and the way it was resolved, but does not establish the number of people affected beyond the materials considered.

4. The constitutional framework after 1 July 2026

The 2026 snapshot must take account of the Constitution adopted by referendum on 15 March 2026. Under Article 94, it entered into force on 1 July 2026; the previous Constitution ceased to have effect on that date. It would therefore be inaccurate to cite former Article 16 as the current constitutional provision on personal liberty. The applicable guarantees of liberty and personal inviolability are contained in Article 18 of the new Constitution. [1]

That article makes detention on remand subject to a judicial decision and a right of appeal, requires statutory limits on detention without a judicial decision, and guarantees an explanation of the reasons for detention and of the person's rights. The right to legal assistance is linked to actual detention, recognition as a suspect or the bringing of charges. Article 19 establishes the presumption of innocence until a conviction becomes final and protection against compelled testimony against oneself and specified close relatives. Article 20 protects dignity and prohibits torture and cruel treatment. [1]

Constitutional change does not nullify the codes or previously developed judicial interpretation. Article 96 preserves the application of existing laws insofar as they do not conflict with the new Constitution; a similar criterion applies to earlier normative resolutions of the Constitutional Court and Constitutional Council. The decisions from 2023 and June 2026 are therefore examined within a framework of continuity, while taking account of the new constitutional provisions. Historical article numbers in those decisions are not mechanically transferred to the description of current law. [1]

For economic cases, the significance of this framework lies primarily in the separate protection of liberty, property and access to judicial protection. Alleged financial harm does not remove the accused's personal safeguards; equally, safeguards for businesspeople do not eliminate the victim's interest in the investigation of an actual offence. The Constitution's direct effect does not dispense with fact-finding or procedural requirements. Concrete reasoning, review of decisions and implementation of safeguards will provide verifiable evidence of the constitutional reform's effects, rather than the mere existence of a new Basic Law.

5. The structure of judicial control

At the investigation stage, authorisation of detention on remand is a matter for the investigating judge. The investigative authority prepares the application and supporting materials; the prosecutor conducts the review required by law and supports or declines to support the application. Appellate competence is governed by Article 107 of the CPC, while at the trial stage the preventive measure falls within the powers of the court hearing the criminal case. Initiating a restriction on liberty, judicially authorising it and subsequently reviewing it are therefore distinct procedural acts. [3-4]

The involvement of several actors does not automatically mean that each fact receives independent scrutiny at every level. Substantive review occurs when the court compares the circumstances set out in the application with the submitted materials and the defence's objections. Reproducing the legal classification and a statutory list of risks is insufficient. The issue is what information links the particular person to the alleged offence, and why remaining at liberty under other restrictions would create an unacceptable risk to the proceedings.

In an economic case, this examination may involve the contract, payments, officials' powers, accounting records, the reality of a supply and the sequence of corporate decisions. The investigating judge does not, however, become a trial court determining guilt in advance. Supreme Court Normative Resolution No. 1 of 24 January 2020 both requires scrutiny of reasonable suspicion and prohibits prejudgment of the ultimate issues in the criminal case. Between superficial agreement with the investigator and a premature conviction lies a distinct judicial assessment of whether there is a sufficient basis for restricting liberty. [4, paragraphs 9-10]

Prosecutorial approval does not compensate for the absence of that assessment, and refusal to authorise custody is not equivalent to discontinuing the investigation. The case may continue under another preventive measure or without detention on remand. This separation permits analysis of judicial control without a false choice between protecting the accused's rights and investigating economic harm. The lawfulness of the prosecution and the lawfulness of a particular restriction on liberty are connected but are not identical.

6. Mapping economic offences

Chapter 8 of the CC brings together heterogeneous conduct: unlawful business activity, certain financial offences, fictitious invoices, financial pyramids, laundering of criminal proceeds, tax offences and other offences. Its title does not eliminate differences in the protected interest, form of culpability, required damage or aggravating elements. For preventive measures, it also matters whether the relevant article appears in the list of exceptions in Article 136(3) of the CPC. [2-3]

Offence / CC article	Key distinction	Regime under CPC Article 136(3)
Misappropriation or embezzlement - 189	Theft of entrusted property; Chapter 6.	The special Chapter 8 prohibition does not apply.
Fraud - 190	Deception or abuse of trust; Chapter 6.	The special Chapter 8 prohibition does not apply.
Unlawful business activity - 214	Breach of the prescribed regime with additional constituent elements.	Prohibition subject to Article 147(1)(4) and (5) exceptions.
Fictitious invoices - 216	A document without a real transaction, with the statutory purpose and damage.	Prohibition subject to Article 147(1)(4) and (5) exceptions.
Tax evasion by an organisation - 245	Tax obligation, method of evasion and criminally relevant elements.	Prohibition subject to Article 147(1)(4) and (5) exceptions.
Financial pyramid - 217; laundering - 218; concealment of assets - 218-1	Separate offences differing in subject matter and conduct.	Expressly excluded from the special prohibition.
Articles 231, 234, 248, 249	Including economic smuggling, coercion into a transaction and corporate raiding.	Expressly excluded from the special prohibition.

The table describes legal classification, not the frequency with which the provisions are applied. Different parts of the same article may prescribe different levels of seriousness and penalties; the article number alone therefore does not complete the assessment under Article 147 of the CPC. A custody decision depends on the particular part, the factual basis of any aggravating element and applicable special restrictions. Inclusion in the list of exceptions removes the special prohibition but does not create an unconditional duty to detain the person.

Property offences under Chapter 6 form a separate group, particularly misappropriation or embezzlement and fraud. They may frequently arise in a business context, but that does not legally convert them into Chapter 8 offences. Conversely, the specific offence of corporate raiding belongs to Chapter 8 but is expressly excluded from the prohibition on custody. These overlaps explain why the general expression “detention in an economic case” is insufficient to support a legal conclusion.

7. Fraud and non-performance of a contract

Paragraph 10 of Supreme Court Normative Resolution No. 6 of 29 June 2017 links the distinction between fraud and civil-law relations to the time when the intent to steal arose. That intent must exist before or at the conclusion of the contract; the deception must causally precede acquisition of the property or the right to it. Subsequent failure to perform an obligation does not replace evidence of that original purpose. [6]

This distinction is particularly important in commercial relations where performance depends on financing, suppliers' actions, demand and other circumstances. An unprofitable transaction and delay may explain a contractual breach without demonstrating an intention to steal when the contract was concluded. At the same time, contractual form does not immunise actual deception: a fictitious supply, knowingly false information or a pre-arranged scheme to obtain money may have criminal significance where the remaining elements of the offence are established.

Analysis of intent cannot be replaced by a collection of external signs of business failure. A lack of sufficient assets on the inspection date does not necessarily describe the position when the contract was concluded; loss of contact with a counterparty after a dispute is not equivalent to an initial plan to steal. The converse also holds: an individual payment or partial performance does not automatically disprove deception. Its significance depends on the chronology, correspondence, genuine commercial activity and movement of funds taken together. This is an analytical consequence of the requirement to establish the subjective element, not an independent presumption in favour of either party.

At the preventive-measure stage, these circumstances are assessed within the limits of reasonable suspicion rather than final proof of guilt. Nevertheless, a defence argument that the relationship is civil in nature requires a substantive response where it undermines the factual basis of suspicion. Simply relabelling an unperformed obligation as fraud does not answer that argument. For personal liberty, this scrutiny has additional significance: Article 190 of the CC is not covered by the special prohibition in Article 136(3), which applies to the main group of Chapter 8 offences. [2-4]

8. Civil judgments and criminal charges: the Zarirov case

Constitutional Court Normative Resolution No. 23-NP of 14 July 2023 followed an application by E. Z. Zarirov. The Court examined Article 127(2) of the CPC, concerning the binding effect of a civil judgment in subsequent proceedings. According to the circumstances recounted in the decision, a civil claim was allowed on 23 December 2020 for recovery of a principal debt of KZT 8,600,000, damages of KZT 700,000 and legal costs; the applicant complied with the judgment in full. He was subsequently convicted on 6 May 2021 under Article 190(3)(1) of the CC. [7]

The applicant argued that the existence of the civil judgment precluded a different assessment of the relationship in criminal proceedings. The Constitutional Court did not accept that interpretation as mandatory. It upheld the constitutionality of the rule under which a civil judgment is binding as to the occurrence of an event or act, but does not predetermine the defendant's guilt or innocence. Criminal culpability must be determined in criminal proceedings through examination of the relevant elements of the offence, including intent. [7]

The decision has implications in both directions. A debt that has been judicially recovered and paid does not create an unconditional bar to investigating initial deception. Nor, however, can the opposite presumption be drawn from the civil judgment: acknowledgement of a debt or invalidity of a transaction is not a finding of criminal guilt. The binding effect of prior findings avoids re-establishing certain circumstances, but does not replace the evidence specifically required for criminal liability. The Constitutional Court expressly connected the issue with the distinction between fraud and civil-law relations.

The decision does not amount to a fresh merits determination of Zarirov's criminal case. It provides no basis for asserting that the Constitutional Court independently confirmed every fact alleged by the prosecution or reassessed the lower courts' evaluation of the evidence. For monitoring purposes, it identifies a specific legal conflict and the way it was resolved. In the context of detention on remand, the conclusion is limited: the civil judgment must be given its proper effect, but neither its existence nor payment of the monetary obligation replaces the separate examination of suspicion and procedural risk.

9. Unlawful business activity and the applicable classification

Article 214 of the CC does not impose criminal liability for every failure to comply with a business formality. It covers activity without required registration or a licence, breaches of permit and notification requirements, or prohibited business activity, where the statutory consequences or scale are present. Relevant elements include, in particular, substantial damage, income on a large scale or specified dealings in excisable goods in significant quantities. Each variant of the offence requires its own elements to be established. [2]

Paragraph 3 of Supreme Court Normative Resolution No. 3 of 24 January 2020, amended on 18 December 2025, specifically addresses situations in which registration as an individual entrepreneur is not mandatory. If the law permits the activity without such registration, the absence of registration does not establish the relevant element of the offence. Similarly, the list of activities requiring a permit or notification cannot be expanded merely because an activity is generally regarded as commercial. [5]

For the temporal snapshot, it is essential that Article 215 of the CC on sham entrepreneurship was repealed in 2017. Its appearance in a historical text or an older analytical publication does not make it a current basis for prosecution. This does not mean that all fictitious operations have been decriminalised: other provisions in force may apply where their elements are present. Such an assessment must nevertheless be independent, rather than a concealed continuation of the repealed article under the general heading of economic crime. [2]

Classification errors have cascading consequences for restrictions on liberty. If the registration requirement or another necessary element of Article 214 is not established, the basis of suspicion itself is weakened. If the offence is substantiated, the special restriction in Article 136(3) of the CPC must still be examined separately. Even substantial income does not automatically become a risk of absconding: the scale of the alleged unlawful activity and a prediction of the person's conduct address different legal questions. The reasons for custody must explain any alleged connection between them, rather than infer it from the amount of money involved.

10. Tax charges and fictitious invoices

Article 216 of the CC concerns the issuance of an invoice without actual work, services or shipment of goods where the additional statutory elements are present. Article 245 governs an organisation's evasion of taxes and other mandatory payments. These provisions may interact, but a counterparty's violation does not automatically establish another participant's guilt within the commercial chain. The specific acts, knowledge, purpose and, where alleged, complicity must be identified. [2; 5]

In paragraph 28 of Normative Resolution No. 3, the Supreme Court identifies direct intent as a requirement for tax evasion. Paragraph 29 requires examination of whether the person evading tax and the person supplying fictitious invoices acted as accomplices. Tax arrears, an inaccurate document and a particular individual's criminal liability are thus not treated as a single fact. An additional assessment may have evidential value, but does not dispense with criminal-procedure scrutiny of the remaining elements of the charge. [5]

Paragraph 30, as amended in December 2025, is especially important: the indictment must identify the breached provisions of tax legislation in the version applicable at the time of the conduct, the deadlines for filing the return and making payment, and the period under examination. Missing required particulars constitute a significant procedural problem preventing the scheduling of the main trial and requiring consideration of returning the case to the prosecutor. The rule concerns the specificity of the charge, rather than formal reproduction of a tax article number. [5]

Temporal detail has substantive importance: the return-filing deadline may differ from the payment deadline, and today's tax legislation may differ from the version applicable to the period examined. A preventive-measure decision does not require the entire tax expert examination to be completed in advance, but suspicion cannot rest solely on an unspecified amount of “damage to the budget”. Finally, Articles 216 and 245 are not, in themselves, listed among the offences excluded from the special prohibition in Article 136(3). Custody in such cases requires a statutory exception to be established, rather than merely the amount of the alleged tax arrears. [3-5]

11. Exceptions: financial schemes and corporate control

The special restriction on custody does not extend to the offences listed in Article 136(3) of the CPC: Articles 217, 218, 218-1, 231, 234, 248 and 249 of the CC. The list is exhaustive and cannot be replaced by a general category of "dangerous economic offences". It includes, among other matters, financial pyramids, laundering of criminal proceeds, concealment of unlawfully acquired assets, certain monetary and customs offences, coercion into a transaction and corporate raiding. Each offence has its own constituent elements. [2-3]

The legal consequence of an exception is limited: the special prohibition applicable to the main group of economic offences no longer applies. The general grounds for a preventive measure, scrutiny of suspicion, rules concerning the prescribed penalty and the requirement to consider a less restrictive measure remain. Otherwise, a statutory exception would become automatic custody for everyone charged under the relevant article, which inclusion in the list does not, by itself, establish. [3-4]

The offence of corporate raiding is particularly instructive. Article 249 of the CC describes unlawful acquisition of rights or control through specified unlawful means; a separate part covers coercion into disposal through organising or initiating inspections and restrictive measures. Criminal law can therefore serve not only as an instrument of intervention in a corporate conflict, but also as a means of protection against an unlawful takeover. Each invocation of the article nevertheless requires the statutory conduct and consequences to be established, rather than the mere existence of conflict among shareholders. [2]

Cases involving financial schemes similarly distinguish the origin of property, a participant's knowledge and the nature of the transactions. A complex ownership structure, a cross-border transfer or the use of several companies does not independently prove money laundering. Its criminal significance depends on the established elements of the relevant provision. Conversely, a transaction's outwardly lawful form does not exclude a criminal purpose. Judicial control therefore requires examination of the suspect's specific connection with the operations, without substituting either a reputational assessment of the business or an assertion that everything documented in a contract must be lawful.

12. The special prohibition on custody

Article 136(3) of the CPC establishes a rule against the use of custody, subject to expressly defined exceptions. Alongside the listed offences, it refers to Article 147(1)(4) and (5): the person has absconded or attempted to abscond, or is suspected of an offence committed as part of an organised group or criminal community. Supreme Court Normative Resolution No. 1 identifies the corresponding protection with offences under Chapter 8 of the CC. [3-4]

This structure differs from the general requirement to consider alternatives. Where the special prohibition applies, the court is not choosing between equally permissible options solely on the basis of its own view of the seriousness of the case. It must first determine whether the measure itself is legally available. Only once an applicable exception is established does assessment of the general grounds for custody become relevant. Substantial damage, public attention or the complexity of an expert examination is not listed as an independent means of overcoming the prohibition.

Concurrent charges under an economic provision and an article outside the relevant chapter require separate analysis. The Supreme Court permits custody where another offence is alleged and the statutory conditions are established. It does not analytically follow, however, that adding any article number makes the restriction on liberty justified. The factual basis of the additional charge is subject to the same reasonable-suspicion scrutiny, and the necessity of confinement must be justified independently. [4, paragraphs 6-10]

The special safeguard thus protects a defined legal category of charges in the absence of established exceptions, rather than the social group of “businesspeople”. Its strength lies in limiting judicial discretion; its vulnerability lies in its dependence on the proper legal classification of facts. Identifying that dependence does not prove abuse in a particular proceeding. It shows why assessing the lawfulness of a measure requires more than reading the operative part of the order: the reasoning supporting the classification, the facts establishing the exception and their connection with the required degree of restriction all matter.

13. Reasonable suspicion and procedural risks

Article 136 of the CPC links preventive measures to sufficient grounds for believing that a person will abscond, obstruct the investigation or trial, continue criminal activity, or to the need to secure execution of the judgment. Article 138 requires individual circumstances to be considered, including age, health, family, social ties, reputation, work, financial position and place of residence. These circumstances are not decorative additions to the seriousness of the charge; they inform the necessity and intensity of the restriction. [3]

Reasonable suspicion concerns the factual connection between a person and an alleged offence. Procedural risk concerns a different question: likely future conduct. The first connection does not automatically establish the second. Bank records indicating a suspicious transaction may support suspicion, but do not by themselves explain why the person intends to destroy documents already seized or abscond. Conversely, information suggesting an intention to leave does not cure the absence of a factual basis for the charge itself.

Paragraphs 9-10 of Supreme Court Resolution No. 1 require assessment of the materials supporting suspicion, including the defence's arguments, without determining guilt. The review covers the occurrence of the alleged conduct, the elements of an offence and the possible involvement of the particular person. Its significance is not confined to the first application: corresponding scrutiny is also required on extension, subject to the qualification identified by the Supreme Court for the period of access to the case file. The initial classification does not therefore become permanently established merely because the first application was granted. [4]

The exception in Article 136(2) must also be recognised: for the expressly listed conduct, the law allows custody on grounds of seriousness or legal classification. It cannot be ignored in a general account of Kazakhstan's law, but neither can it be extended to all economic cases. In the field examined here, the severity of the possible penalty generally operates as one factor, rather than as a universal substitute for a specific risk. Analytically sound reasoning explains which circumstances remain a threat to the proceedings and why available restrictions would be insufficient to address them. [3-4]

14. Absconding and an organised group

The exception concerning absconding or attempted absconding requires a factual basis. In an economic case, residence abroad, foreign assets or business travel may be relevant to the assessment, but they are not equivalent to evasion. The sequence of events, awareness of a summons, valid notification and subsequent conduct matter. Normative Resolution No. 1 requires confirmation of the grounds for examination in the person's absence and the relevant circumstances of the search for that person. [3-4]

An organised group likewise does not arise from an ordinary corporate hierarchy. Paragraph 33-1 of Supreme Court Normative Resolution No. 3, introduced in December 2025, specifically states that participation by the head of a legal entity or division and subordinate employees is insufficient in the absence of other elements of a criminal group. Those elements must be set out in the indictment and examined by the court. This is particularly significant where an ordinary allocation of staff responsibilities might otherwise be mistaken for ready-made evidence of a criminal organisation. [5]

For a preventive measure, the issue arises before the charge is tried on its merits. If an organised group is relied on to overcome the special prohibition, the corresponding suspicion must already have a concrete factual basis at the judicial-control stage. An accountant's job description or a manager's subordination to the director demonstrates an employment relationship; additional elements are required to establish a criminal organisation. At the same time, a genuine company may be used for criminal activity if the materials substantiate that conclusion.

Both exceptions place particular weight on the reasons given. They can alter the applicable regime of liberty before a final judgment and therefore cannot rest on a verbal formula. The absence of final proof of guilt at the investigation stage does not, however, make their use impossible in principle: the standard remains reasonable suspicion and a substantiated need for the measure. The balance is upset both by automatically accepting the label “organised group” and by demanding a final conviction before any procedural decision can be taken.

15. The initial judicial hearing

Under the general rule in Article 147 of the CPC, custody is available for offences carrying imprisonment for more than five years. For offences with a less severe penalty, the law specifies exceptional conditions. Lack of a permanent residence in Kazakhstan cannot be the sole ground. This provision must be applied consistently with the special regime for economic offences, rather than read in isolation from Article 136. [3]

The preceding initial detention is regulated separately. Under Article 131 of the CPC, the general maximum is forty-eight hours, or twenty-four hours for a minor; detention for up to seventy-two hours is permitted in the exceptional circumstances listed by law. These include suspicion of an especially grave offence, an offence committed as part of a criminal group and certain objective obstacles to timely production before a judge. Consequently, the familiar idea of a uniform seventy-two-hour period as the ordinary limit for any initial detention does not reflect the applicable rules. [3]

At the moment of actual detention, the grounds for restricting liberty and the rights to invite counsel and remain silent must be explained. The record must specify, among other matters, the time of actual detention and arrival, to the hour and minute, the explanation of rights and health information; a medical examination is provided for. In economic proceedings, these safeguards are no less important than subsequent analysis of accounting evidence. The initial period can determine access to a lawyer and the conditions in which the first explanations are obtained, so legal scrutiny of that period must not begin only with the date of the judicial order. [3, Article 131]

Article 148 requires the investigating judge to examine the application no later than eight hours after the court receives the materials, with the prosecutor, the suspect or accused and defence counsel participating, subject to the statutory exceptions allowing consideration in the person's absence. The judge gives defence counsel access to the materials received. This eight-hour period concerns the judicial procedure and does not replace the rules governing initial detention or its calculation. Confusing these periods produces an incorrect assessment of the lawfulness of the entire restriction on liberty. [3]

The possible outcomes are authorisation of custody, the short period of up to ten days provided for by law, or refusal with the possibility of selecting another measure. The short period is not permission to hold someone without reasonable suspicion or an applicable legal basis. The order must state the reasons for choosing the most restrictive measure and why less restrictive options cannot be used. The investigator's intention to supplement the evidence does not replace those requirements. [3, Article 148]

The practical substance of the hearing depends on the defence's ability to respond to specific materials. In a complex economic case, formal access to a large volume of documents immediately before a hearing is not the same as a real opportunity to challenge their significance. The available evidence, however, does not measure the time given to defence lawyers in such proceedings. The report therefore records the statutory safeguard and its functional meaning without asserting an unproven prevalence of violations. The verifiable question in an individual case is which material objections were submitted, examined and addressed in the reasons.

16. Bail and other alternatives

The CPC provides for several preventive measures with different levels of restriction, ranging from an undertaking not to leave and to behave appropriately to house arrest and custody. Article 136(1-1) requires consideration of a less restrictive measure where one is available. Article 145 governs bail, which may be provided by the suspect or another person; the law permits certain property and valuables as well as money. The amount is determined with regard to the circumstances and limits prescribed by law. [3]

Article 148 requires a bail amount to be set when custody is authorised, subject to substantial exceptions, including the rules on especially grave offences and the circumstances listed in paragraph 9. The statement that “any economic charge permits release on bail” is therefore incorrect. Equally incorrect is the opposite assumption that granting a custody application always excludes later provision of the bail set by the court. The availability of that mechanism depends on the particular order and the legal conditions. [3]

Financial circumstances cannot be reduced to company turnover or the alleged amount of damage. Turnover is not the accused's available cash; corporate assets do not necessarily belong to that person; frozen property may be unavailable as security. Analytically, this matters for the proportionality of bail, but does not mean that financial difficulty automatically requires the court to accept any proposed amount. What matters is whether the measure secures the procedural purpose in the individual's circumstances.

Nor are alternatives interchangeable. A prohibition on particular contacts may respond directly to a risk of influencing identified witnesses; restrictions on movement may address evasion; bail may secure compliance with imposed obligations. No measure is sufficient by name alone. Judicial assessment requires comparing the factual risk with the substance of the restrictions. The presence of a less restrictive measure in the Code establishes that it can legally be considered, not that it is guaranteed in every case.

17. House arrest: the Moldagaliyev decision

House arrest is a strict measure involving confinement outside a custodial institution and restrictions imposed by the court. It cannot be equated with full restoration of liberty. In Normative Resolution No. 9 of 11 April 2023, the Constitutional Court examined K. D. Moldagaliyev's application concerning the prohibitions on leaving the home, using communications and receiving visitors under Article 146(2) of the CPC. [8]

The Court upheld the challenged provisions as constitutional subject to a specified interpretation. Restrictions applied separately or together must preserve the guaranteed rights of the person under arrest and defence counsel, including life, health, judicial protection and qualified legal assistance. They must not endanger life or health or effectively eliminate the ability to exercise necessary procedural rights. Constitutional review therefore addressed not only the permissible list of prohibitions, but also their cumulative effect. [8]

This distinction has additional significance in an economic case. The ability to communicate with counsel, transmit documents and help prepare a defence is not equivalent to a right to manage a company without supervision or contact all its employees. If particular employees are witnesses, the permissibility of contact requires separate assessment. A communications ban cannot, however, be interpreted so as to deprive the accused of legal assistance altogether. The judicial measure must have defined limits and preserve the substance of inalienable rights.

The Moldagaliyev decision supplies no statistics on house-arrest violations and does not establish the outcome of all the applicant's subsequent proceedings. It confirms a constitutional boundary in tailoring restrictions to the individual. An increase in the number of house-arrest measures is therefore insufficient, by itself, to establish a reduction in the overall interference with rights: duration, communications restrictions, medical access and the real ability to conduct a defence all matter. At the same time, replacing detention in an institution with house arrest remains a legally significant change, which should not be discounted merely because the new measure is also restrictive.

18. Duration: the investigation and trial stages

Article 151 of the CPC establishes a general two-month period of custody during the pre-trial investigation and a special extension procedure. The law distinguishes levels of approval and conditions for extending the period to three and nine months, with additional requirements for longer periods connected to the category of offence and complexity of the case. Extension to twelve and eighteen months concerns exceptional situations defined by law; it is not the ordinary timetable for every economic investigation. Separate provisions govern custody during examination of the case file. [3]

Article 342 applies at trial. The basic period runs from receipt of the case by the court until judgment and is six months. For grave offences, the limit is twelve months. For especially grave offences, paragraph 3-1 establishes a different regime, including an eighteen-month period and exceptional, reasoned extensions for the short intervals prescribed by law. The twelve-month limit examined by the Constitutional Court in June 2026 must therefore not be presented as a universal limit for all criminal cases. [3; 9]

A lawful maximum period and the necessity of continued confinement answer different questions. An unexhausted period does not relieve the court of assessing the current grounds for the measure. Conversely, sufficient procedural risks do not permit the applicable absolute limit to be exceeded. The complexity of a financial expert examination may explain the duration of an investigation, but does not by itself establish why the particular person must remain in custody throughout it.

Observation of practice requires an uninterrupted chronology: actual detention, initial authorisation, each extension, transfer to the trial court, changes of measure, and severance or joinder of proceedings. Recording only the latest order's date can conceal an interval without a current judicial basis or a restarted calculation of a period already exhausted. Precisely these questions have undergone constitutional review. Their legal importance does not, however, mean that this report establishes the average duration of custody for economic offences: the necessary individual-level data are unavailable.

19. Late extension: the circumstances of Kaliyev's application

Constitutional Court Resolution No. 85-NP of 10 June 2026 combines the applications of A. A. Kaliyev and A. G. Parkhomenko. Both concern custody during trial on charges of grave offences. The published decision provides no basis for classifying their charges as economic offences; they are used here as documented examples of general procedural safeguards that are also relevant to economic cases. [9]

In the circumstances of Kaliyev's application, the six-month period expired on 29 April 2025, while the extension was ordered on 6 May 2025. The issue was whether confinement could continue between expiry of the previous period and the new order. The Constitutional Court held unconstitutional the wording of Article 342(3) that permitted an interpretation under which extension could occur after the original period had expired. An extension must be authorised before the existing period ends, rather than retroactively legalising custody that has already occurred. [9]

The importance of this position extends beyond counting several calendar days. Judicial control must provide a current basis for deprivation of liberty, rather than a later record that it might have been justified. Administrative delay in considering the issue does not make deprivation of liberty without proper authorisation lawful. The decision connects this reasoning to earlier constitutional positions and the duty to respond to expiry, rather than await an indeterminate future order.

Precision is important for the monitoring conclusion: the Constitutional Court removed the statutory possibility of late extension, but the published decision does not certify every consequence in Kaliyev's underlying criminal case. It does not establish an acquittal, a compensation amount or discontinuance of the charge. The documented outcome is the constitutional assessment of the provision and the binding legal position on continuity of a lawful judicial basis. Subsequent implementation in other cases is a separate empirical question requiring later judicial materials.

20. Renewed custody after the maximum period: Parkhomenko's application

The second part of Resolution No. 85-NP concerns the risk of renewed detention after the maximum period has been exhausted. According to the chronology recounted by the Constitutional Court, Parkhomenko's case reached the trial court on 4 June 2024. On 3 June 2025, the measure was changed to house arrest. The applicant was nevertheless warned that a breach of restrictions could result in a return to custody, and that approach was upheld on review. [9]

The Constitutional Court found the provisions of Articles 136, 140, 153 and 342 under examination compatible with the Constitution only under an interpretation preventing circumvention of the twelve-month limit in a grave-offence case. Breach of house arrest or another measure does not justify renewed custody beyond the maximum permitted period in the same case. The legal position also covers joinder or severance of proceedings, where a formal change in procedural structure must not restart an exhausted period. [9]

This does not mean that breaching a preventive measure has no legal consequences. The Court distinguishes permissible responses to improper conduct from a particular response that would conflict with the custody limit. Otherwise, the maximum would depend on repeatedly returning a person to an institution after short periods under another measure, and the statutory safeguard would lose its certainty.

The Government was directed to initiate legislation bringing the provisions into line with the decision within the specified six-month period. The constitutional decision's own entry into force was not, however, deferred until that legislative work was complete: it took effect on adoption. The immediate significance of the legal position must therefore be distinguished from subsequent amendments to the statutory text. As at the reporting date, an instruction to prepare amendments cannot be presented as evidence that a particular new law has already been enacted and entered into force. [9]

Together, the two applications demonstrate different ways in which a lawful basis may be lost: an interval without timely extension and renewed use of custody after the limit is exhausted. Substantive judicial reasons concerning risk cure neither defect. Analysis of time limits must therefore remain independent of assessment of the charge's seriousness and the defendant's conduct.

21. Wanted status, absence and the cross-border context

Article 148 of the CPC permits consideration of custody without the suspect or accused in the prescribed circumstances: where the person has been declared wanted, or is outside Kazakhstan and evading appearance, subject to notification requirements. Supreme Court Normative Resolution No. 1 elaborates the need for supporting materials and participation by defence counsel. The person's absence from the courtroom does not, by itself, provide sufficient grounds for authorising the measure in absentia. [3-4]

In a cross-border economic case, it is particularly important to distinguish residence from procedural conduct. A person may have been abroad before proceedings began, maintained known contact details and received no proper summons. The opposite is also possible: departure after notification, concealment of an address and other conduct indicating evasion. Without a chronology, these situations may appear similar but have different implications for the exception to the special prohibition and for establishing a risk of absconding.

After a person subject to an in absentia custody order is detained, the law provides for production before an investigating judge to examine the measure's justification. The Supreme Court explains the procedure, including the possibility of applying at the place of detention if transfer to the place of the proceedings is difficult. The earlier in absentia order therefore does not eliminate the importance of a subsequent opportunity to challenge the measure in person. Specific periods are calculated under the relevant procedure, rather than derived from a single general rule on the initial judicial hearing. [3-4]

Domestic wanted status, an international search, extradition detention in another state and custody following surrender are different legal situations. A Kazakhstani order does not automatically oblige a foreign court to surrender a person or regard the charge as proven. For this monitoring report, the cross-border dimension matters in a narrower sense: information about residence abroad must retain its context, and the lawfulness of the national measure is assessed by reference to its own grounds, procedure and time limits.

The distinction also prevents the reverse error. A foreign state's refusal of extradition on a particular legal ground is not, by itself, equivalent to discontinuance of the domestic charge. The legal effect of the external proceedings depends on the content of the relevant decision. This report contains no sample of Kazakhstan-related extradition cases and therefore draws no conclusions about how frequently such requests are found justified or unjustified.

22. Published indicators for 2025-2026

The official statistical basis of this snapshot consists of two communications: the information published on the President's website on 29 January 2026 about courts' performance in 2025, and the Supreme Court's communication on the first half of 2026. These are aggregate publications, not individual-level judicial datasets. The changes they report are set out below in the units and comparisons that the sources themselves substantiate. [10-11]

Indicator and source	Published values	Unit and limits of interpretation
Refusals to authorise custody; 2025 results [10]	25.7% → 37.5%	Proportion in the comparison reported; underlying counts are not disclosed.
House arrest; 2025 results [10]	2,786 → 5,019	Published counts of use; not a proven count of substitutions for institutional custody.
Electronic bracelets; 2025 results [10]	954 → 2,283	Persons in the communication; possible overlap with house arrest.
Custody applications granted; first half of 2026 [11]	63.4% → 60.1%	Published half-year comparison; no separate economic-offence category.
Incoming criminal cases; first half of 2026 [11]	17.5k → 17.2k	Rounded case counts; not persons or preventive-measure applications.
Persons convicted; first half of 2026 [11]	15.7k → 15.2k	Rounded person counts; not the population held in custody.

The number of house-arrest measures and the number of persons fitted with electronic bracelets cannot be added together: the categories may overlap. Nor are these figures an established count of people previously released from remand facilities. An alternative measure may be imposed initially, while electronic monitoring describes a means of implementation rather than necessarily a separate type of decision. Changes in the indicators do not reveal the sequence of measures applied to one person.

The annual refusal rate and the approval rate in the half-year communication are presented as separate published series. They are not combined here into a continuous scale without confirmed comparability of periods, the applications included and counting rules. The distinction between cases, persons and procedural applications is preserved: one criminal case may involve several accused persons, and one accused person may be subject to several preventive-measure decisions.

The missing breakdown is particularly significant for this report: the publications do not isolate Chapter 8 offences, Articles 189 and 190 in a business context, the grounds for exceptions or the distribution of durations. The data therefore provide system-wide context. They do not establish that a businessperson's probability of being held in custody equals the overall application approval rate, or that a specified number of economic defendants were released because of a particular reform.

23. What statistical changes do and do not explain

A change in the proportion of applications granted is consistent with several mechanisms. Courts may scrutinise materials more rigorously; prosecutors may select differently which applications to submit; the mix of offences investigated, the seriousness of charges or the proportion of wanted persons may change. The same percentage movement can arise from different combinations of those factors. Without information on applications submitted and rejected at earlier stages, the causal contribution of judicial control cannot be established.

An approval rate measures decisions within a defined population of applications. It does not automatically measure the proportion of all suspects who are in custody. Some suspects never enter that population because no application for the measure was made. Repeated applications and extensions may also alter the number of procedural events without a proportionate change in the number of persons. These distinctions determine the denominator and therefore the meaning of the percentage.

There is a temporal dimension as well. Fewer initial custody authorisations may coexist with longer custody for those who are nevertheless detained. An increase in house arrest may represent replacement of institutional confinement, but could also mean more frequent use of a strict alternative where an undertaking had previously sufficed. Without individual transitions between measures and duration data, neither explanation is established. This does not refute the published indicators; it defines the limits of what they explain.

The heterogeneity of economic charges presents a separate problem. Combining a tax case, an alleged financial pyramid and fraud in a single research dataset conceals differences in the legal regime. Comparing regional judicial practices without accounting for that structure may wrongly attribute an incoming case-mix effect to the court. A substantiated conclusion requires comparable groups and consistent rules for defining units of observation.

This snapshot therefore contains no single numerical “business protection index” or regional ranking. The available sources substantiate particular indicators and significant legal changes. They do not support a unified estimate of the probability of arbitrary detention or successful appeal for a particular businessperson. Refraining from that calculation preserves the analytical value of the actual data by not assigning a precision they do not possess.

24. Appeals and reassessment of necessity

Article 107 of the CPC provides for appeals against investigating judges' orders authorising custody, house arrest and bail, extending or revoking them, or refusing the corresponding action. The right to apply belongs to the participants specified by law, including the suspect and defence counsel, as well as a person whose rights are directly affected by the order. The procedure sets a short three-day period from pronouncement and allows reinstatement of a period missed for a valid reason under the prescribed rules. [3]

For decisions concerning personal liberty, speed has independent value. A successful challenge after a lengthy period has ended cannot reproduce the effect of timely release. Filing an appeal does not, however, automatically suspend enforcement of the relevant order. The law distinguishes the existence of a remedy from the immediate legal effect of invoking it. The Code describes the regional or equivalent court's decision under Article 107 as final. [3]

This special procedure must not be confused with review of the final criminal judgment or constitutional review of a legislative provision. An application to the Constitutional Court addresses a norm within that court's jurisdiction; it is not an ordinary further appellate stage for every factual question of custody. Resolutions No. 9, No. 23-NP and No. 85-NP demonstrate the importance of constitutional review, but do not replace prompt examination of an individual challenge to the measure. [7-9]

Extension provides another occasion to examine whether the grounds remain current. Paragraph 15 of Supreme Court Normative Resolution No. 1 requires inquiry into whether the circumstances underlying the initial custody have ceased or changed. Evidence may have been secured, witnesses interviewed, access to particular documents removed or the person's health altered. Each circumstance is assessed for its actual significance; a list of completed investigative steps does not, by itself, prove that every risk has disappeared. [4]

A separate Supreme Court clarification addresses repeated applications relying on the same uncompleted investigative steps. The judge must establish why those steps were not taken. A list of planned expert examinations and interviews therefore cannot be reproduced indefinitely as a sufficient basis for extension. The inquiry encompasses the need for the step, the explanation for delay and the continuing connection with the inability to use another measure. [4, paragraph 15]

In a complex economic case, this reasoning is particularly significant while awaiting documents, calculations or an expert opinion. Waiting for a result may be objectively necessary to complete the investigation, but the accused's physical confinement does not always affect how quickly it can be obtained. This does not mean that confinement during the waiting period is invariably unlawful: other substantiated risks may exist. The reasons must nevertheless identify the continuing basis for the measure, rather than merely the unfinished state of the proceedings. That distinction permits assessment of the judicial decision without assuming that every investigative delay is abusive.

Qualitative analysis of appeals therefore considers more than the outcome “upheld” or “set aside”. It matters whether the central argument that custody was unavailable for the classification was addressed, whether a genuine exception was established, whether a time-calculation error was corrected and whether a specific alternative was assessed. An aggregate reversal rate without the substance of appeals and reasons does not answer these questions. The available sources do not provide a sufficient dataset for a quantitative conclusion about the effectiveness of appeals specifically in economic-offence cases.

25. Asset restraints and consequences for a company

Restraint of property and detention of a person differ in their object and procedural purpose. Article 161 of the CPC governs asset-related security, including in connection with civil claims, monetary recoveries and possible confiscation. Measures against property are not, by their label, evidence that deprivation of liberty is lawful, and the choice of a preventive measure does not automatically establish that all corporate assets belong to the accused or derive from crime. [3]

These interventions may operate simultaneously in economic proceedings. Restricting a director's liberty impedes management decisions; restraining assets limits dealings with particular property; seizure of documents affects access to information. The effects may logically reinforce one another, but their actual scale must be established from the company's circumstances. This snapshot contains no data allowing an estimate of the number of businesses or jobs lost, or the value of losses caused by preventive measures.

The distinction is particularly important when assessing the causes of financial harm. Financial deterioration may precede the criminal case, constitute its subject matter or arise afterwards. It is not possible automatically to attribute all subsequent loss to the director's detention; nor can the impact of procedural restrictions be ruled out simply because the company was already in difficulty. Causal analysis requires temporal separation and attention to other factors, including market conditions and counterparties' actions.

Article 161 also distinguishes the limits of interference with property: the value of assets restrained to secure a civil claim cannot exceed the amount claimed. This rule concerns that particular security purpose and must not be mechanically extended to a different purpose, such as possible confiscation. In analysing measures together, it is important that the monetary assessment of damage and the intensity of restrictions on personal liberty do not form a single scale. Even a lawfully secured claim creates no additional procedural ground for confining the debtor. [3]

Third-party interests likewise do not disappear because a director faces criminal proceedings. An asset may belong to the company, a secured creditor or another owner; the legal regime depends on the particular basis of the interference and the established links to the proceedings. The decision's specific scope matters: the personal charge, corporate ownership of property and a particular person's financial liability are separate questions. The report does not assume that a company's separate legal personality excludes every protective measure, but neither does it infer the permissibility of such measures from the accused's job title alone.

The victim's right to protection of financial interests does not turn custody into a means of obtaining payment. A preventive measure's purpose is defined by procedural grounds, rather than the creditor's negotiating advantage. On the other hand, preserving assets and evidence may be a lawful purpose of the relevant protective and investigative actions. Scrutiny must address the particular instrument: which provision permits it, which property is affected and what substantiates the required connection.

Release from custody therefore does not automatically lift property restrictions, while removal of a restraint on a particular asset does not discontinue the prosecution. In a corporate conflict, these outcomes are often perceived as a single victory or defeat for a party, but legally they determine different issues. Describing them separately avoids the erroneous conclusion that changing one measure, by itself, certifies the lawfulness or unlawfulness of the entire proceeding.

26. Defence rights and redress

An economic charge generally requires work with documents, a sequence of transactions and the allocation of powers. Exercising the right to a defence requires more than an abstract entitlement to a lawyer: the person must be able to discuss their position confidentially, understand the substance of the suspicion and submit relevant objections. Constitutional guarantees of legal assistance and CPC provisions on defence counsel supply the legal foundation for this activity. Their application to an individual liberty hearing also involves access to the materials submitted to the court. [1; 3]

Confinement may create an informational imbalance where the accused knows the commercial context but has limited ability to obtain documents or explain their connections. Referring merely to the volume of the investigator's evidence does not resolve that difficulty. At the same time, defence rights do not provide unrestricted access to every material at every stage or displace lawful limits on contact. The legal question is whether a real opportunity remains to challenge the substantial grounds for the restriction on liberty through the prescribed procedure.

The constitutional decision on house arrest shows that prohibitions are also assessed cumulatively: each may separately appear connected to the measure's purpose, but together they may impede the defence itself or necessary medical assistance. Dignity and health remain independent concerns for detention in an institution. The unlawfulness of treatment does not depend on how serious the charge is and cannot be justified by the person's potential guilt. [1; 8; 12]

Article 15(6) of the new Constitution establishes a right to state compensation for harm caused by unlawful acts of public bodies or officials. Article 9(5) of the Covenant provides an enforceable right to compensation for unlawful arrest or detention. Between identifying a legislative problem, setting aside an individual order and awarding a particular sum, however, lie separate legal questions: the basis of liability, the established period of violation, causation and the extent of harm. [1; 12]

The materials examined in this monitoring report do not substantiate compensation awards to the applicants in the constitutional cases discussed. The right to redress is therefore presented as a safeguard, rather than an outcome already achieved. Similarly, a successful change of measure does not prove that the entire criminal allegation was unfounded. Preserving these distinctions allows assessment both of urgent protection of liberty and of subsequent redress, without substituting one for the other.

27. International safeguards and the prohibition of imprisonment for debt

Kazakhstan ratified the International Covenant on Civil and Political Rights by Law No. 91 of 28 November 2005. Articles 9 and 14 are central to the present subject: the prohibition of arbitrary deprivation of liberty, judicial review, reasonable time, the presumption of innocence and procedural opportunities for the defence. Article 9 expressly provides that custody pending trial must not be the general rule, permits guarantees of appearance and provides for judicial release where detention is unlawful. [12]

Article 11 has independent significance: it prohibits imprisonment solely on the ground of inability to fulfil a contractual obligation. It does not eliminate criminal liability for proven fraud, but prevents criminal coercion from replacing ordinary debt recovery. Read with Kazakhstan's rule on when fraudulent intent must arise, it produces a clear distinction: inability to pay and initial deception are not the same legal fact. [6; 12]

International and domestic scrutiny are related but do not merge. Compliance with a formally prescribed period does not fully answer the question of arbitrariness if the necessary factual basis for the restriction is absent. Conversely, reliance on an international standard must be connected to a specific procedure, circumstances and infringed right, rather than replace them with a general assertion that the case is unfair. Individual grounds, the availability of review and a real opportunity to exercise defence rights matter to the assessment.

The Covenant also distinguishes the right to a fair determination of the charge from the right to prompt review of deprivation of liberty. Even where a complex economic case requires prolonged examination of evidence, the necessity of continued confinement remains a separate question. In the national system, that distinction is reflected in rules on alternatives, reassessment of current grounds and maximum periods. Alignment of legal principles does not prove their full implementation in every proceeding, but supplies a substantive basis for comparison.

The report does not extend the European Court of Human Rights' direct jurisdiction to Kazakhstan or present foreign judicial standards as a substitute for applicable domestic law. Its international analysis rests on the ratified Covenant. Those provisions are used to assess the purposes and limits of interference, rather than to deliver an abstract verdict on guilt, political motivation or arbitrariness in every economic prosecution in the country.

28. Competing explanations and limits of critical assessment

One possible interpretation of the system examined is that safeguards have strengthened: special restrictions on custody for economic offences, the duty to consider alternatives, constitutional correction of time limits and published changes in aggregate indicators all exist. The existence of the relevant rules and decisions is documented. A conclusion that the safeguards are equally effective across all regions and offences would nevertheless exceed the sources. Stronger legal protection and its everyday implementation must be assessed separately. [1; 3-5; 8-11]

A second interpretation emphasises risks: exceptions depend on classification, an economic charge may be linked to a corporate conflict, and prolonged confinement may affect a company's position. These mechanisms are legally and logically significant. Their existence does not, however, establish that every Article 190 charge or allegation of an organised group is artificial. An allegation of abuse requires individual evidence that the classification does not fit the facts, or of other specific violations.

A third explanation concerns statistics. Shifts may reflect changes in judicial behaviour, but also prosecutorial selection, patterns of crime and incoming case composition. Without further data, the effect of one institution cannot be isolated. Methodological caution does not mean disregarding official indicators: they remain a meaningful account of published outcomes if their units, periods and limitations are preserved.

A fourth issue concerns what can be inferred from constitutional applications. A decision correcting a defect confirms that the problem reached a review mechanism and received a legal resolution. It evidences both an identified violation or uncertainty and the system's capacity to develop a correction. Neither the complete ineffectiveness of all safeguards nor elimination of the problem in every subsequent case follows merely from adoption of the decision.

Finally, an economic prosecution does not become politically motivated solely because the business is important or public bodies are involved. Such an assessment would require separate facts concerning purpose, selectivity, context and procedure. This monitoring report contains no evidence base for a general classification of Kazakhstan's economic cases in those terms. Its critical task is narrower and more verifiable: to show where the law limits coercion, which questions have received judicial resolution and which assertions about practice remain unproven.

29. Overall assessment

As at 24 September 2026, Kazakhstan's framework contains substantial restrictions on custody for the main group of offences in the sphere of economic activity. Those restrictions operate through legal classification and specific exceptions, rather than a general immunity for businesspeople. Fraud, misappropriation and a number of expressly excluded economic offences receive a different scope of special protection, but the general requirements of reasonable suspicion, a lawful basis and individual assessment of the measure remain. [2-4]

The most significant relationship between substantive and procedural law appears in three questions. The first is the distinction between initial deception and subsequent contractual non-performance. The second is the prohibition on treating an ordinary corporate hierarchy as a criminal group without additional elements. The third is specificity in tax charges as to the legal provision, period and deadline for discharging the obligation. These requirements affect not only the eventual judgment, but also the factual basis of restrictions on liberty imposed beforehand. [5-7]

Documented constitutional case law complements this framework. The decision on the binding effect of civil judgments preserves the independence of criminal proof; the house-arrest decision protects inalienable rights against the cumulative effect of prohibitions; and the June 2026 decision excludes late extension and circumvention of the maximum through renewed custody. The new Constitution preserves the significance of earlier legal positions insofar as they are compatible with the current constitutional framework. [1; 7-9]

Detailed legal rules do not, however, amount to complete empirical observability. Available official communications lack a sufficient breakdown by economic offence, individual, grounds for an exception and duration of custody. The report's statistical component therefore describes the published system-wide context, while the judicial examples describe specific legal problems. Neither group of sources replaces a representative body of individual decisions.

The monitoring report ultimately establishes the boundaries of what is substantiated. Legal safeguards and significant instances of constitutional review are confirmed by primary materials. Their universal effectiveness, the prevalence of circumvention of special restrictions and the causal impact of reforms have not been established quantitatively. In an individual economic proceeding, the decisive matters remain the classification of the facts, the applicability of an exception, current risks, the substance of alternatives and continuity of a lawful judicial basis. It is at this level that a permissible investigation of financial harm is distinguished from a restriction on liberty that fails to meet the established legal requirements.

30. Sources

[1] Constitution of the Republic of Kazakhstan, adopted by national referendum on 15 March 2026: Articles 5, 15-20, 94 and 96. Entered into force on 1 July 2026.
Official text of the Constitution

[2] Criminal Code of the Republic of Kazakhstan, No. 226-V of 3 July 2014: Articles 189, 190, 214-218-1, 231, 234, 238, 244, 245, 248 and 249; Chapter 8. Consolidated text.
Text of the Criminal Code

[3] Criminal Procedure Code of the Republic of Kazakhstan, No. 231-V of 4 July 2014: Articles 56, 64-70, 107, 127, 131, 136-153, 161, 319 and 342. Consolidated text.
Text of the CPC

[4] Supreme Court of the Republic of Kazakhstan. Normative Resolution No. 1 of 24 January 2020, "On Certain Issues concerning Authorisation of Preventive Measures", as amended on 29 November 2024.
Resolution on preventive measures

[5] Supreme Court of the Republic of Kazakhstan. Normative Resolution No. 3 of 24 January 2020, "On Certain Issues concerning Courts' Application of Legislation on Criminal Offences in the Sphere of Economic Activity", as amended, including by Resolution No. 7 of 18 December 2025: paragraphs 3, 26-32 and 33-1.
Resolution on economic offences

[6] Supreme Court of the Republic of Kazakhstan. Normative Resolution No. 6 of 29 June 2017, "On Judicial Practice in Fraud Cases": in particular paragraph 10.
Resolution on fraud

[7] Constitutional Court of the Republic of Kazakhstan. Normative Resolution No. 23-NP of 14 July 2023 concerning Article 127(2) of the CPC; application by E. Z. Zarirov.
Full text of Resolution No. 23-NP

[8] Constitutional Court of the Republic of Kazakhstan. Normative Resolution No. 9 of 11 April 2023 concerning provisions of Article 146(2) of the CPC; application by K. D. Moldagaliyev.
Full text of Resolution No. 9

[9] Constitutional Court of the Republic of Kazakhstan. Normative Resolution No. 85-NP of 10 June 2026: custody time limits at trial, Articles 136, 140, 153 and 342 of the CPC; applications by A. A. Kaliyev and A. G. Parkhomenko. Full text, 10 pages.
Full text of Resolution No. 85-NP - PDF

[10] Official website of the President of the Republic of Kazakhstan. "The Head of State Received Supreme Court Chair Aslambek Mergaliyev", 29 January 2026. Communication on judicial performance in 2025.
Official communication on 2025 results

[11] Supreme Court of the Republic of Kazakhstan. "The Supreme Court Reviewed the Administration of Justice in the First Half of 2026". Official channel, post No. 6872.
Official communication on first-half 2026 results

[12] International Covenant on Civil and Political Rights: Articles 2, 9, 10, 11 and 14. Law of the Republic of Kazakhstan No. 91 of 28 November 2005, "On Ratification of the International Covenant on Civil and Political Rights", and text of the Covenant.
Ratification law and text of the Covenant