

On the Commission on issues of pardon under the President of the Republic of Kazakhstan

Unofficial translation

Decree of the President of the Republic of Kazakhstan dated July 5, 2006 No. 140.

Unofficial translation

To be published in
"Collection of acts of the President
and Government"

In accordance with subparagraph 15) of Article 44 of the Constitution of the Republic of Kazakhstan and subparagraph 3) of paragraph 2 of Article 33 of the Constitutional Law of the Republic of Kazakhstan dated December 26, 1995 "On the President of the Republic of Kazakhstan" **I hereby RESOLVE:**

1. To approve:

1) The Regulations on the Commission on issues of pardon under the President of the Republic of Kazakhstan in accordance with Annex 1;

2) the composition of the Commission on issues of pardon under the President of the Republic of Kazakhstan in accordance with Annex 2.

2. To recognize as terminated:

1) Decree of the President of the Republic of Kazakhstan dated May 7, 1996 № 2975 "On approval of the Regulations on the procedure for granting pardon to citizens by the President of the Republic of Kazakhstan";

2) Decree of the President of the Republic of Kazakhstan dated September 13, 1996 № 3108 "On the composition of the Commission on issues of pardon under the President of the Republic of Kazakhstan";

3) Decree of the President of the Republic of Kazakhstan dated January 28, 1997 № 3343 "On Amendments and Additions to Decree of the President of the Republic of Kazakhstan dated September 13, 1996 № 3108 "On the Composition of the Commission on issues of pardon under the President of the Republic of Kazakhstan";

4) Decree of the President of the Republic of Kazakhstan dated February 18, 1998 № 3841 "On amendments and additions to Decree of the President of the Republic of Kazakhstan dated May 7, 1996 № 2975" (CAPG of the Republic of Kazakhstan, 1998, № 4, art. 20);

5) Decree of the President of the Republic of Kazakhstan dated April 1, 1998 № 3892 "On amendments to Decree of the President of the Republic of Kazakhstan dated September 13, 1996 № 3108";

6) Decree of the President of the Republic of Kazakhstan dated February 13, 2001 № 557 "On amendments to Decree of the President of the Republic of Kazakhstan dated May 7, 1996 № 2975";

7) paragraph 1 of Decree of the President of the Republic of Kazakhstan dated November 7, 2000 № 719 "On amendments to Decrees of the President of the Republic of Kazakhstan dated September 13, 1996 № 3108 and dated June 18, 1996 № 3039";

8) Decree of the President of the Republic of Kazakhstan dated March 6, 2002 № 821 "On Amendments to Decree of the President of the Republic of Kazakhstan dated September 13, 1996 № 3108";

9) Decree of the President of the Republic of Kazakhstan dated February 4, 2004 № 1288 "On amendments and additions to Decree of the President of the Republic of Kazakhstan dated May 7, 1996 № 2975";

10) subparagraph 2) of paragraph 1 of Decree of the President of the Republic of Kazakhstan dated December 15, 2004 № 1504 "On amendments to some acts of the President of the Republic of Kazakhstan";

11) paragraph 1 of Decree of the President of the Republic of Kazakhstan dated May 16, 2005 № 1573 "On amendments and additions to Decree of the President of the Republic of Kazakhstan dated May 7, 1996 № 2975 and terminating some acts of the President of the Republic of Kazakhstan" (CAPG of the Republic of Kazakhstan, 2005, № 20, article 238).

3. This Decree shall come into effect from the date of signing.

*The President of the
Republic of Kazakhstan*

ANNEX 1
APPROVED by
Decree of the President of the
Republic of Kazakhstan
dated July 5, 2006 № 140

REGULATIONS

**on the Commission and on issues of pardon
under the President of the Republic of Kazakhstan**

Footnote. The entire text is amended in the national language, the text in Russian is not changed pursuant to Decree of the President of the Republic of Kazakhstan № 126 of 09.02.2023 (shall be enacted ten calendar days after the date of its first official publication).

1. General provisions

1. This Regulation on the Commission on issues of pardon under the President of the Republic of Kazakhstan (hereinafter referred to as the Regulation) in accordance with subparagraph 15) of Article 44 of the Constitution of the Republic of Kazakhstan, subparagraph 6) of Article 19 and subparagraph 3) of paragraph 2 of Article 33 of the

Constitutional Law of the Republic of Kazakhstan dated December 26 1995 "On the President of the Republic of Kazakhstan" shall define the procedure for activities of the Commission on the issues of pardon under the President of the Republic of Kazakhstan (hereinafter referred to as the Commission) and consideration of request for pardon.

Footnote. Paragraph 1 as amended by Decree of the President of the Republic of Kazakhstan dated 22.04.2015 № 1036.

2. Pardon shall be carried out by the President of the Republic of Kazakhstan based on a suit of a person in respect of whom the conviction has entered into force, as well as a person who is serving or has served on the territory of the Republic of Kazakhstan a sentence imposed by a court of a foreign state.

Footnote. Paragraph 2 as amended by Decree of the President of the Republic of Kazakhstan dated 22.04.2015 № 1036.

3. The President of the Republic of Kazakhstan may, at his discretion, pardon a convicted person or a person who has served a sentence.

Footnote. Paragraph 3 as amended by Decree of the President of the Republic of Kazakhstan dated 22.04.2015 № 1036.

4. The request for pardon may be filed only after the entry into effect of a court judgment (resolution).

Footnote. Paragraph 4 as amended by Decree of the President of the Republic of Kazakhstan dated 22.04.2015 № 1036.

5. Pardon shall be carried out in the form of:

1) Excluded by Decree of the President of the Republic of Kazakhstan № 126 dated 09.02.2023 (shall come into force ten calendar days after the date of its first official publication);

1-1) replacement of life imprisonment with imprisonment for a certain period;

2) release from further serving the sentence or reduction of the term of the imposed sentence;

3) replacement of the punishment imposed by the court with a milder type of punishment;

3-1) release from an additional type of punishment;

4) removal of a criminal record from persons who have served a sentence or released from further serving it.

Footnote. Paragraph 5 as amended by Decree of the President of the Republic of Kazakhstan dated 22.04.2015 № 1036; № 126 dated 09.02.2023 (shall come into force ten calendar days after the date of its first official publication).

2. Commission on issues of pardon under the President of the Republic of Kazakhstan

6. Consideration of materials on pardon shall be carried out by the Commission on issues of pardon under the President of the Republic of Kazakhstan (hereinafter referred to as the

Commission), which is an advisory and consultative body under the President of the Republic of Kazakhstan.

7. The composition of the Commission shall be approved by the President.

8. The commission shall be chaired by the chairman.

The Commission shall consist ex officio of the Assistant to the President of the Republic of Kazakhstan on legal issues, the Human Rights Commissioner of the Republic of Kazakhstan, the Deputy Prosecutor General in charge of penal enforcement and rehabilitation of citizens, and the Chairman of the Penal Execution System Committee of the Ministry of Internal Affairs of the Republic of Kazakhstan.

The Commission may consist of members of the Parliament of the Republic of Kazakhstan, representatives of non-governmental organizations and other persons.

Footnote. Paragraph 8 - as reworded by Decree of the President of the Republic of Kazakhstan № 126 of 09.02.2023 (shall become effective ten calendar days after the date of its first official publication)); as amended by the Decree of the President of the Republic of Kazakhstan dated 20.10.2023 № 384.

9. In the absence of the Chairperson at the meeting of the Commission, his duties shall be assigned to the deputy Chairperson of the Commission.

10. Meeting of the Commission shall be deemed competent if attended by more than two thirds of its members.

11. The Chairman of the Supreme Court, the chairmen of the Judicial Boards of the Supreme Court, the heads of the Central State Authorities or their deputies may attend the Commission's sessions and take the floor on matters under discussion.

Footnote. Paragraph 11 - as reworded by Decree of the President of the Republic of Kazakhstan № 126 of 09.02.2023 (shall come into force ten calendar days after the date of its first official publication).

12. The Commission shall have the right to invite representatives of state bodies, public associations, as well as other persons to its meetings in order to obtain the necessary information on issues within its competence.

Footnote. Paragraph 12 as amended by Decree of the President of the Republic of Kazakhstan dated 22.04.2015 № 1036.

13. The decision of the Commission shall be adopted by a majority vote of the number of its members present at the meeting. The first question to be voted on is the question most favorable to the convicted person. When the votes of the members of the Commission are equally divided, the vote of the Chairperson shall be decisive. The decision of the Commission shall be documented in the minutes and signed by all its members who participated in the meeting.

Invitees shall not vote when the Commission takes its decision.

Footnote. Paragraph 13 as amended by Decree of the President of the Republic of Kazakhstan № 126 of 09.02.2023 (shall be put into effect ten calendar days after the date of its first official publication).

14. When considering the issue of pardon, the following shall be studied and taken into account:

1) the nature and degree of social danger of the crime committed, the personality of the convicted person, his behavior, attitude to work, participation in the work of amateur organizations in places of deprivation of liberty, the term of the sentence not served, marital status and other circumstances that are important when considering an application for pardon;

2) the conclusions of the Chairperson of the Supreme Court, the Prosecutor General and the Minister of Internal Affairs of the Republic of Kazakhstan on the advisability of applying the act of pardon to the convicted person;

3) opinions of the administration of the bodies executing punishment, public associations and labor collectives (if any);

4) an appeal (if any) of the victim or his legal representative for pardon of the convicted person.

Footnote. Paragraph 14 as amended by Decree of the President of the Republic of Kazakhstan dated 22.04.2015 № 1036.

15. The working body of the Commission shall be the State Legal Department of the Administration of the President of the Republic of Kazakhstan, which carries out:

1) preliminary consideration of the submitted materials on pardon, preparation of the necessary materials for consideration by the Commission and the President of the Republic of Kazakhstan;

2) control over the timely execution of Decrees of the Head of State on pardon;

3) generalization of the practice of applying pardon;

4) other powers provided for by the Regulations on the Administration of the President of the Republic of Kazakhstan and these Regulations.

Footnote. Paragraph 15 as amended by Decree of the President of the Republic of Kazakhstan dated 24.04.2008 № 576.

3. Procedure for filing an application for pardon

16. The convicted person shall apply in writing with a request for pardon addressed to the President of the Republic of Kazakhstan.

Footnote. Paragraph 16 as amended by Decree of the President of the Republic of Kazakhstan dated 22.04.2015 № 1036.

17. A clemency petition of a person sentenced to imprisonment or detention shall be filed through the administration of the institution executing the sentence.

A plea of mercy for a person (serviceman) sentenced to arrest and serving his sentence in the brig shall be filed through the military police authorities at the place where the sentence is being served.

A petition for a clemency for a person sentenced to a punishment of restriction of liberty, correctional labour, community service, probation or suspension of serving the sentence shall be filed through the probation service at the place of residence.

A petition for a clemency of a person freed on parole from serving the sentence shall be lodged through bodies of internal affairs in the place of residence.

A person who has been convicted to a fine or who has served the sentence or has been discharged from further serving of the sentence shall independently file a clemency petition addressed to the President of the Republic of Kazakhstan.

Footnote. Article 17 - as reworded by Decree of the President of the Republic of Kazakhstan № 126 of 09.02.2023 (shall come into effect ten calendar days after the date of its first official publication).

18. Excluded by Decree of the President of the Republic of Kazakhstan dated 22.04.2015 № 1036.

19. Excluded by Decree of the President of the Republic of Kazakhstan dated 22.04.2015 № 1036.

19-1. Excluded by Decree of the President of the Republic of Kazakhstan dated April 22, 2015 № 1036.

19-2. Excluded by Decree of the President of the Republic of Kazakhstan dated 22.04.2015 № 1036.

20. Excluded by Decree of the President of the Republic of Kazakhstan № 126 dated 09.02.2023 (shall be enforced upon expiry of ten calendar days after its first official publication).

21. Excluded by Decree of the President of the Republic of Kazakhstan № 126 dated 09.02.2023 (shall be enforced upon expiry of ten calendar days after its first official publication).

22. Excluded by Decree of the President of the Republic of Kazakhstan № 126 dated 09.02.2023 (shall be enforced upon expiry of ten calendar days after its first official publication).

23. Excluded by Decree of the President of the Republic of Kazakhstan № 126 dated 09.02.2023 (shall be enforced upon expiry of ten calendar days after its first official publication).

24. The administration of the institutions, bodies executing the sentence, or the internal affairs bodies shall be obliged, within fifteen working days after the registration of the request for pardon, to send it together with the documents specified in paragraph 25 of this Regulation to the Administration of the President of the Republic of Kazakhstan.

The applicant shall be notified of the submission of an application for pardon within three working days.

Footnote. Paragraph 24 as amended by Decree of the President of the Republic of Kazakhstan dated 22.04.2015 № 1036.

25. The following documents shall be enclosed with a petition for clemency:

1) a certified copy of an identity document;

1-1) a questionnaire containing the convict's curriculum vitae, family history, previous convictions, previous amnesties and the results of previous clemency petitions (apart from the person petitioning for clemency on his/her own);

2) certified copies of the court decisions where the convicted person is (has been) serving the sentence;

3) a statement with the opinion of the administration of the institution, the bodies enforcing the sentence and the internal affairs authorities on the advisability of a clemency (a person who has served or been released from serving his/her sentence or who has been sentenced to life imprisonment or to a particular occupation shall attach a statement from the internal affairs authorities at his/her place of residence);

4) a characteristic (a person applying for a clemency on his/her own shall attach a characteristic from the internal affairs authorities in the place of residence);

5) a certificate of health status;

5-1) a psychological profile (to be enclosed by the administration of the institution)

6) a certificate of claims and outstanding debts;

7) upon the request of the convicted person, the person who has served the sentence or been released from further serving of the sentence, as well as on the initiative of the administration of the institution, the bodies executing the sentence, the internal affairs bodies - other documents important for consideration of the application of the clemency.

The working body of the Commission may require from the authorities of penal institutions, penal enforcement bodies and internal affairs bodies additional materials relevant to the consideration of a clemency.

Footnote. Paragraph 25 - as reworded by Decree of the President of the Republic of Kazakhstan № 126 of 09.02.2023 (shall become effective ten calendar days after the date of its first official publication).

26. The materials attached to the request for pardon and sent through the institutions, internal affairs bodies, bodies executing punishment shall be, respectively, verified by the administration of these institutions, the authorities of the relevant bodies.

Materials accompanying a petition for clemency and submitted independently by a person who has served or been released from serving his/her sentence must be notarised.

Footnote. Paragraph 26 as amended by Decree of the President of the Republic of Kazakhstan dated 22.04.2015 № 1036; as amended by Decree of the President of the Republic of Kazakhstan № 126 of 09.02.2023 (shall be put into effect ten calendar days after

the date of its first official publication).

27. Excluded by Decree of the President of the Republic of Kazakhstan dated 22.04.2015 № 1036.

28. If the President of the Republic of Kazakhstan decides to pardon a person at its own discretion, the working body of the Commission shall request the necessary documents from the administration of the institution, the bodies executing the sentence, the internal affairs bodies, or from the person who has served a sentence or released from further serving it.

Footnote. Paragraph 28 as amended by Decree of the President of the Republic of Kazakhstan dated 22.04.2015 № 1036.

29. The administration of the institution or the body executing the sentence that submitted the request for pardon shall be obliged to notify the Commission in the event of:

- 1) death of the convicted person;
- 2) transfer of the convicted person to another institution;
- 3) the emergence of other circumstances that may affect the decision of the issue of pardon.

4. Proceedings for consideration of request for pardon

30. The received materials with a request for pardon shall be sent by the working body of the Commission to the General Prosecutor's Office, the Supreme Court and the Ministry of Internal Affairs of the Republic of Kazakhstan, which, no later than one month from the date of receipt, shall submit conclusions indicating the content of the adopted court decisions, the circumstances of the crime, data on the personality of the convicted person and his opinion on the merits of each request for pardon.

Requests for pardon, which contain references to the groundlessness of the conviction or violation of the law that need verification, shall be sent by the working body or the Commission for verification to the relevant state bodies.

In case of improper execution of documents submitted with a request for pardon, the working body of the Commission shall return them for revision.

Footnote. Paragraph 30 as amended by Decree of the President of the Republic of Kazakhstan dated 22.04.2015 № 1036.

31. Materials with requests for pardon based on the results of their study and after receiving the conclusions of the relevant state bodies shall be submitted by the working body for consideration by the Commission.

In the absence of grounds for filing a request for pardon for consideration by the Commission, the working body shall inform on this to the institutions, bodies executing the sentence, the internal affairs bodies for further informing the person applying for pardon or the person who has submitted a request independently.

Footnote. Paragraph 31 as amended by Decree of the President of the Republic of Kazakhstan dated 22.04.2015 № 1036.

32. Based on the results of consideration of proposals of the Commission, the President of the Republic of Kazakhstan shall issue the decrees on pardon, which are not subject to appeal.

When a request for pardon is filed, the working body of the Commission shall notify in writing the institutions, bodies executing the sentence, and the internal affairs bodies for further informing the person applying for pardon or the person who has submitted a request independently.

Footnote. Paragraph 32 as amended by Decree of the President of the Republic of Kazakhstan dated 22.04.2015 № 1036.

5. Final provisions

33. Decrees of clemency shall be forwarded for supervision to the Office of the Procurator-General of Kazakhstan and for enforcement to the Ministry of Internal Affairs of Kazakhstan or other bodies enforcing sentences.

Footnote. Paragraph 33 - as reworded by Decree of the President of the Republic of Kazakhstan № 126 of 09.02.2023 (shall take effect ten calendar days after the date of its first official publication).

34. Data on the execution of decrees of the President of the Republic of Kazakhstan on clemency shall be presented to the Executive Office of the President of the Republic of Kazakhstan by the Minister of Internal Affairs of the Republic of Kazakhstan or the heads of other central state authorities executing punishments.

Footnote. Paragraph 34 - as reworded by Decree of the President of the Republic of Kazakhstan № 126 of 09.02.2023 (shall be enacted ten calendar days after the date of its first official publication).

35. Excluded by Decree of the President of the Republic of Kazakhstan № 126 dated 09.02.2023 (shall enter into force ten calendar days after the date of its first official publication).

ANNEX 2
APPROVED by
Decree of the President of the
Republic of Kazakhstan
dated July 5, 2006 № 140

MEMBERS

of the Clemency Commission under the President of the Republic of Kazakhstan

Footnote. The composition - as reworded by Decree of the President of the Republic of Kazakhstan № 126 dated 09.02.2023 (shall be put into effect ten calendar days after the date of its first official publication); as amended by the Decree of the President of the Republic of Kazakhstan dated 20.10.2023 № 384; dated 02.07.2024 № 594.

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Bashimov Marat Sovetovich	–	Deputy of the Mazhilis of the Parliament of the Republic of Kazakhstan, Chairman (as agreed)
		Members of the Commission:
Asanova Zhanna Beisentaevna	–	Deputy of the Senate of the Parliament of the Republic of Kazakhstan (by agreement),
Borchashvili Isidor Shamilovich	–	Doctor of Law (habilitation degree in law), Professor (by agreement)
Aubakirova Indira Uralovna	–	Doctor of Law (by agreement);
Turmagambetova Zhemis Utegenovna	–	Executive Director of the Charter for Human Rights Foundation (by agreement).

The Commission shall consist ex officio of the Assistant to the President of the Republic of Kazakhstan on legal issues, the Human Rights Commissioner of the Republic of Kazakhstan, the Deputy Prosecutor General in charge of penal enforcement and rehabilitation of citizens, and the Chairman of the Penal Execution System Committee of the Ministry of Internal Affairs.