

On Amnesty in Connection with the Tenth Anniversary of the Adoption of the Declaration of State Sovereignty of the Republic of Kazakhstan

Unofficial translation

The Law of the Republic of Kazakhstan dated 29 December, 2000 No.134-II

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This Law is adopted in connection with the tenth anniversary of the adoption of Declaration on the state sovereignty of the Republic of Kazakhstan, guided by the principles of humanism.

Article 1. Release from punishment of convicted for crimes of little and average gravity:

- 1) minors, as well as persons that are the minors at the time of commission of a crime;
- 2) women with minor children and disabled children of I and II groups that are dependent, as well as pregnant women;
- 3) women over 55 and men over 60 years;
- 4) participants and disabled persons of The Great Patriotic War, as well as persons equated to them;
- 5) disabled persons of I and II groups.

Article 2. Release the persons who are not covered by Article 1 of this Law, first convicted to imprisonment for the crime of little and average gravity from punishment for the term up to three years inclusively.

Article 3. Release the persons convicted for the crime of little and average gravity, who are not covered by Articles 1 and 2 of this Law, from punishment in the form of imprisonment, if they have served at least one third of assigned term of punishment.

Article 4. Release the persons, listed in Article 1 of this Law and not covered by Articles 1-3 of this Law, from punishment in the form of imprisonment, if they have served at least half of assigned term of punishment.

Article 5. Release the persons, who are not covered by Articles 1-4 of this Law, first convicted to imprisonment for the term up to six years inclusively, from punishment, if they have served at least half of assigned term of punishment.

Article 6. Release the persons, convicted to measures of punishment, not related with imprisonment, from punishment, if this punishment is applied as a basic.

Article 7. Release the military servicemen, committed a military crime, as well as liable for military service, evading from military draft, from punishment.

Article 8. Reduce an unserved part of punishment for half, to the persons, convicted to imprisonment, who are not subject to release from punishment on the basis of Articles 1-7 of this Law :

- 1) convicted for crime of little and average gravity;
- 2) convicted for grave crimes, if they have served at least half of assigned term of punishment.

Article 9. Terminate the production of all criminal cases and cases, not considered by courts on crimes, committed before entering of this Law into legal force by persons, listed in Articles 1 and 7 of this Law, as well as in relation of persons, subject to criminal responsibility for the crime, for which a punishment of up to 5 years of imprisonment or punishment, not related with imprisonment is provided.

Article 10. Establish that:

- 1) minors, in other words persons, who have not attained the age of eighteen years at the time of the crime, are referred to the persons, specified in subparagraph 1) of Article 1 of this Law ;
 - 2) women, who are not deprived of parental rights and with children, as well as adopted or taken under trusteeship, who have not reached the age of eighteen on the day of entering of this Law into legal force, or disabled children of I and II groups, depending on their age, women, having a pregnancy on the date of entering of this Law into legal force, are referred to the persons, specified in subparagraph 2) of Article 1 of this Law;
 - 3) women who are 55 years and older, and males who have attained 60 years and over, until the entering of this Law into legal force, are referred to the persons, specified in subparagraph 3) of Article 1 of this Law. Upon that, in the absence of documents, approving the day and month of birth of these persons shall be considered as such the women born before 1 January, 1945 and men born before January 1, 1940;
 - 4) participants and disabled persons of The Great Patriotic War, as well as persons equated to them, are referred to the persons, specified in subparagraph 4) of Article 1 of this Law :
- military servicemen serving in military units, staffs and institutions who were in the composition of army during the Great Patriotic War, as well as during other military operations for the protection of the former Soviet Union, partisans and members of the underground of the Great Patriotic War;
- military servicemen and civilian of units and formations of the Armed Forces of the former Soviet Union who participated in the combat operations against Japan in 1945;
- military servicemen, as well as persons of officers and other ranks of the Internal Affairs Bodies and State Security of the former Soviet Union, serving during the Great Patriotic War in the cities, participation in the defense of which is included to the years of service for award of pension on preferential terms, established for military servicemen of units of active army;
- persons of civilian employee personnel of the Soviet Army, Senior Service, forces and Internal Affairs Bodies, State Security of the former Soviet Union, holding the established posts in military units, staffs and institutions who were in the composition of active army during the Great Patriotic War, or were in the cities, participation in the defense of which is

included to the years of service for award of pension on preferential terms, established for military servicemen of units of active army, in the relevant period;

persons who were in the composition of military units, staffs and institutions, included to the composition of the army and navy as sons (pupils) of regiments and apprentices during the Great Patriotic War;

persons who participated in the combat operations against Nazi Germany and its allies during the Second World War on the territory of foreign countries as part of guerrilla parties, clandestine groups and other anti-fascist groups;

military servicemen of the Soviet Army, the Navy, Committee for State Security, officers and other ranks of the Internal Affairs Ministry of the former Soviet Union (including military experts and advisors), who took participation in the combat operations on the territory of the other states in accordance with decision of the state bodies of the former Soviet Union;

reservists, called up for training, and directed to Afghanistan during conduct of operations ;

military servicemen of automobile battalions heading to Afghanistan for supply of goods to this country during conduct of operations;

military aircrew who committed flights for the combat missions to the Afghanistan from the territory of the former Soviet Union;

workers and employees who served the Soviet military contingent in Afghanistan, received a wound, concussion and injuries or awarded orders and medals of the former Soviet Union for participation in support of combat operations;

Heroes of the Soviet Union and persons awarded orders of Glory of three classes, Heroes of Socialist Labor;

employees of special formations of the People's Commissariat of communication lines, ship personnel of catching and transport vessels and flight personnel of catching and transport vessels, flight personnel of aviation, the People's Commissariat of the fishing industry, Marine and River Fleet of the former Soviet Union, flight personnel of aviation of Northern Sea Route Authority, transferred during the Great Patriotic War to the position of military servicemen and performed the tasks in the interests of active army and navy within the rear boundaries of existing fronts, operational zones of fleets, as well as members of ship crew of transport fleet interned at the beginning of the Great Patriotic War in the ports of other states;

former minor prisoners of concentration camps, ghettos and other places of forced imprisonment, created by the Nazis during the Second World War;

citizens who worked in the period of blockade in Leningrad at the enterprises, institutions and organizations of the city and awarded with the medal "For the Defense of Leningrad" and persons awarded with "Resident of Blockaded Leningrad";

persons awarded with orders and medals of the former Soviet Union for selfless labor and flawless military service in the rear during the Great Patriotic War;

workers and employees, heading to the work in Afghanistan for the period from 1

December, 1979 to December 1989 and in other countries in which the operations were conducted ;

workers and employees of the Committee for State Security of the former Soviet Union, is temporarily located on the territory of Afghanistan and were not in the composition of a limited contingent of Soviet troops ;

citizens, suffered and became disabled as a result of accidents at the Chernobyl Atomic Electric Power Station and explosions at the Semipalatinsk nuclear ground ;

military servicemen of active army, partisans and members of the underground of the Great Patriotic War, as well as the workers and employees of respective categories, who became disabled due to wound, concussion, injury or disease received in the period of the Great Patriotic War on the front, in the area of military operations, on the front sites of railways, on the construction of defensive position, naval bases and airfields, and equivalent to the military servicemen on retirement insurance ;

military servicemen and civilian of Armed Forces of the former Soviet Union, who became disabled due to wound, concussion, injury or disease received in the period of war with Japan in 1945 ;

military servicemen who became disabled due to wound, concussion, injury, received when defending the former Soviet Union, in the performance of other military duties during other periods or due to disease, related with the stay at the front, as well as upon performance of military service in Afghanistan or other states, in which the operations are conducted ;

persons of officers and other ranks of the Internal Affairs Bodies and State Security of the former Soviet Union, who became disabled due to wound, concussion, injury received upon performance of official duties or as a result of disease related with the stay at the front or the performance of official duties in the states, where the operations were conducted ;

workers and employees of the respective categories, serving the active military contingents in other countries and became disabled due to wound, concussion, injury or disease, received during conduct of operations ;

5) disabled persons of I and II groups, recognized as such before entering of this Law into legal force, are referred to the persons, specified in subparagraph 5) of Article 1 of this Law.

Article 11. Fall within the provisions of this Law:

1) convicted persons, to whom a punishment in the form of imprisonment is imposed by a court verdict with application of Article 63 of the Criminal Code of the Republic of Kazakhstan (Article 40 of the Criminal code of the Kazakh SSR) ;

2) women and women with young children, convicted to imprisonment, to whom execution of the sentence is postponed in accordance with Article 72 of the Criminal Code of the Republic of Kazakhstan (Article 41-1 of the Criminal Code of the Kazakh SSR) ;

3) reservists, evading from military draft, and military servicemen, committed the crimes of little or average gravity before entering of this Law into legal force, if they turned themselves to the nearest bodies of military commissariats, military investigative agencies,

bodies of military prosecutors and military police not later than six months after entering of this Law into legal force.

Article 12. Effect of this Law shall not be apply to the persons:

- 1) recognized as special dangerous recidivists by a court verdict, as well as committed repetition of crimes, recognized as dangerous of specially dangerous;
- 2) convicted, to whom a death penalty is replaced by way of pardon by imprisonment;
- 3) having two or more convictions for committing of grave and especially grave crimes, as well as to the persons, to whom the amnesty or pardon were previously applied and newly committed an intentional crime;
- 4) committed gross violations of the established order of service of sentence or committed an intentional crime while serving of sentence;
- 5) convicted for the following crimes, provided in the Criminal Code of the Kazakh SSR: betrayal of Motherland (Article 50); espionage (Article 51); act of terrorism (Article 52); act of terrorism against a representative of a foreign state (Article 53); diversion (Article 54); war propaganda (Article 57); violation of national and racial equality (3 part of Article 60); mercenary activities (second part of Article 62-2); banditism (Article 63); actions disorganizing the work of corrective labor institutions (Article 63-1); organization or management of a criminal group or a criminal association, participation in a criminal association (second part of Article 63-2); trafficking (second, third and fourth part of Article 64); mass disorders (Article 65); hijacking or seizure of railway vehicles, air, sea or river vessel (second and third part of Article 72-1); manufacture or sale of counterfeit money or securities (second part of Article 73); theft (third part of Article 76); robbery (second and third parts of Article 76-1); robbery with violence (Article 76-2); fraud (third part of Article 76-3); theft of another's property by appropriation or by embezzlement, or by abuse of official position (third part of Article 76-4); extortion (second and third parts of Article 76-7); intentional destruction or damage of another's property (Article 82); willful killing (Article 88); intentional grave bodily injury (Article 93); knowingly putting another person in danger of infection with AIDS and infection with AIDS (second part of Article 100-1); violence (Article 101); pederasty (second part of Article 104); capture or keeping a person as a hostage (Article 115-1); kidnapping (Article 116); abuse of power or official authority (second part of Article 144); acceptance of bribe (Article 146); infringement on life of employee of internal affairs bodies, people's guard, the persons, conducting the inquiry, investigator, procurator, judge or people's assessors (Article 173-1); bribing or forcing a witness, expert or interpreter to give false testimony (third part of Article 187-1); imposition of obviously illegal sentence, decision, determination or decree (second part of Article 191); the threat against the person conducting the inquiry, investigator, procurator, judge or people's assessor (Article 191-2); злостное disobedience to the requirements of administration of the corrective labor institution (second part of Article 199-2); hooliganism (second part of Article 200); theft of firearms, ammunition or explosives (Article 203); theft of narcotic drugs (second and third parts of

Article 213-1); inducement to use drugs (second part of Article 213-2); illegal manufacturing, purchase, storage, transportation, transfer or selling of narcotics (second, third, fourth and fifth parts of Article 214); maintenance of dens and procuration (fifth part of Article 215-1); hijacking of means of transport (second and third parts of Article 221); disobedience (paragraph “c” of Article 225); non-execution of order (paragraph “c” of Article 226); resistance to superior or forcing him (her) to violation of official duties (paragraphs “b” and “c” of Article 227); acts of violence in relation of superior (paragraph “b” of Article 229); infringement of charter rules of mutual relations between military servicemen in the absence of subordination relations between them (paragraph “c” of Article 231); desertion (paragraph “d” of Article 234); absence without leave in a combat situation (Article 235); evasion of military service by mutilation or otherwise (paragraph “b” of Article 236); violation of charter rules of guard service (paragraph “f” of Article 242); violation of rules of combat duty (paragraphs “c” and “d” of Article 244); disclosure of military secret or loss of documents containing military secret (paragraph “c” of Article 246); abuse of authority, excess of power or failure to use authority (paragraphs “b” and “c” of Article 247); surrender or abandonment of weapons of war to enemy (Article 248); abandonment of a sinking warship (article 249); voluntary surrender into captivity (Article 251); marauding (Article 253); violence against the population in the area of military operations (Article 254); as well as robbery (second, third and fourth parts of Article 133), robbery with violence (Article 134), extortion (second and third parts of Article 135), intentional destruction or damage of property (second part of Article 141) of the Criminal Code of the Kazakh SSR is in the wording up to 12 May, 1995;

6) convicted and subject to criminal responsibility for the following crimes, provided in the Criminal Code of the Republic of Kazakhstan: murder (Article 96); intended infliction of grievous bodily harm (Article 103); torture (2 part of Article 107); forced removal of organs or tissues for transplantation or other use (2 and 3 parts of Article 113); human immunodeficiency virus (HIV-AIDS) (3 part of Article 116); violence (Article 120); sexual assault (2 and 3 parts of Article 121); kidnapping (Article 125); illegal deprivation of freedom (3 part of Article 126); recruitment of persons for exploitation (3 part of Article 128); involving a minor in criminal activities (3 and 4 parts of Article 131); trafficking in minors (Article 133); planning, preparation or prosecution of aggressive war (Article 156); production or spread of weapons of mass destruction (Article 158); use of prohibited means and methods of prosecution of war (Article 159); genocide (Article 160); ecocide (Article 161); mercenary activities (Article 162); attack on persons or organizations enjoying international protection (Article 163); treason (Article 165); espionage (Article 166); infringement on life if the state or public figure (Article 167); forcible seizure of power or violent retention of power (Article 168); armed rebellion (Article 169); diversion (Article 171); theft (3 part of Article 175); misappropriation or embezzlement of entrusted property (3 part of Article 176); fraud (3 part of Article 177); robbery (2 and 3 parts of Article 178); robbery with violence (Article 179); theft of items of particular value (Article 180); extortion (2 and 3 parts of Article 181); illegal

occupation of automobile or other transport vehicle without a purpose of theft (2, 3 and 4 parts of Article 185); intentional destruction or damage of another's property (3 part of Article 187); manufacture or sale of counterfeit money or securities (2 and 3 parts of Article 206); economic smuggling (3 part of Article 209); terrorism (Article 233); taking of hostages (Article 234); creation and management of organized criminal group or criminal association (criminal organization), participation in a criminal association (Article 235); organization of illegal military formation (1 part of Article 236); banditism (Article 237); the seizure of buildings, constructions, means of communication and communication (2 and 3 parts of Article 238); hijacking, as well as seizure of air or watercraft or railway vehicles (Article 239); piracy (Article 240); mass disorders (1 and 2 parts of Article 241); theft or extortion of radioactive materials (2 and 3 parts of Article 248); smuggling of items withdrawn from circulation or items with restricted circulation (2 and 3 parts of Article 250); illegal purchase, transfer, sale, storage, transportation or carrying of weapons, ammunition, explosives and explosive devices (2 and 3 parts of Article 251); illegal manufacture of weapons (2,3 parts of Article 252); theft or extortion of weapons, ammunition, explosives and explosive devices (Article 255); hooliganism (3 part of Article 257); illegal manufacturing, purchase, storage, transportation, transfer or sale of narcotic drugs or psychotropic substances (2, 3 and 4 of Article 259); theft or extortion of narcotic drugs or psychotropic substances (Article 260); inducement to use of narcotic drugs or psychotropic substances (2 and 3 parts of Article 261); illegal cultivation of plants, containing narcotic substances, prohibited to cultivation (2 part of Article 262); illegal trafficking of toxic substances, as well as substances, tools or equipment used for the manufacture or processing of narcotic drugs, psychotropic or poisonous substances (2, 3 and 4 parts of Article 263); organization or maintenance of dens houses for consumption of narcotic drugs and psychotropic substances (2 part of Article 264); abuse of official powers (3 part of Article 307); abuse of power or official powers (3 part of Article 308); acceptance of bribe (Article 311); use of violence against a representative of authority (2 part of Article 321); infringement on life of person, administering justice or preliminary investigation (Article 340); threat or acts of violence in connection with the administration of justice or preliminary investigation (4 part of Article 341); bringing of obviously innocent to a criminal responsibility (2 part of Article 344); knowingly illegal detention, taking into custody or detention (3 part of Article 346); compulsion of evidence (2 part of Article 347); imposition of obviously illegal sentence, decision or other judicial act (2 part of Article 350); misleading information (3 part of Article 351); bribery or coercion to give false testimony or to evade giving testimony, or false conclusion or to an incorrect translation (4 part of Article 354); escape from prison, arrest or custody (2 part of Article 358); malicious disobedience to requirements of administration of penal institution (Article 360); disorganization of the normal activity of institutions, providing isolation from society (Article 361); disobedience or other non-performance of order (3 and 5 part of Article 367); resistance to superior or forcing him (her) to violation of official duties (

2 and 3 parts of Article 368); violent acts against superior (2 and 3 parts of Article 369); infringement of charter rules of mutual relations between military servicemen in the absence of subordination relations between them (3 part of Article 370); absence without leave or place of service (5 and 6 parts of Article 372); desertion (2 and 3 parts of Article 373); evasion of military service by mutilation or otherwise (2 and 3 parts of Article 374); violation of rules of combat duty (2 and 3 parts of Article 375); violation of charter rules of guard (watchkeeping) service (2 part of Article 377); abuse of authority, excess of power or failure to use authority (2 and 3 parts of Article 380); abandonment of a sinking warship (2 part of Article 382); surrender or abandonment of weapons of war to enemy (Article 383); voluntary surrender into captivity (Article 384); marauding (Article 385); disclosure of secret information of a military nature or loss of documents containing secret information of a military nature (3 part of Article 386).

Article 13. The ground for the application of amnesty in relation of persons, listed in subparagraphs 2), 4) and 5) of Article 10 of this Law shall be the documents, approving a right of these persons for benefits.

Article 14. Establish that serving of part of the term of punishment, provided by Articles 3-5, 8 of this Law is calculated for the date of entering of act of amnesty into legal force.

Article 15. Amnesty shall not be applied upon aggregate of crimes, if one of them does not fall within the provisions of this Law.

Article 16. Persons who are included in the amnesty shall be released both from basic and additional punishment, if the last one is not executed for the date of entering of this Law into legal force.

Article 17. A part of the term of sentence, that is not served for the day of entering of this Law into legal force shall subject to reduction in accordance with Article 8 of this Law.

Article 18. Convictions, canceled or expired in the manner established by the Law, as well as convictions for the crimes, responsible for which is excluded by the Law shall not be considered upon application of the act of amnesty.

Article 19. Effect of this Law shall be applied to the persons, committed a crime before entering it into legal force, convicted by courts of the Republic of Kazakhstan (Kazakh SSR), as well as military tribunals of the former Soviet Union for crimes committed on the territory of Kazakh SSR.

Article 20. Entrust execution of this Law on:

- 1) bodies exercising punishment in relation of convicted persons, who are in the prisons;
- 2) agencies of inquiry and preliminary investigation against persons, the cases and materials on crimes of which are in the production of these agencies;
- 3) courts in relation of:
persons, the cases and materials on crimes of which are in the production of courts and are not considered before entering of this Law into legal force, as well as in relation of persons, the cases on crimes of which are considered, but sentences have not entered into legal force;

probationers in accordance with Article 63 of the Criminal Code of the Republic of Kazakhstan (Article 40 of the Criminal Code of the Kazakh SSR) and in relation of persons, execution of sentences of which is postponed in the manner, provided by Article 72 of the Criminal Code of the Republic of Kazakhstan (Article 41-1 of the Criminal Code of the Kazakh SSR), (the amnesty is applied by the court, that passed a sentence);

persons, to whom a fine is imposed as the basic punishment, if the fine is not levied before entering of this Law into legal force (the amnesty is applied by the court, that passed a sentence) ;

persons convicted on parole from punishment, and persons, to whom an unserved part of punishment is replaced by more lenient punishment before entering of this Law into legal force (the amnesty is applied by the court, that issued a decree on conditional early relief or replacement of unserved part of punishment by more lenient punishment);

4) internal affairs bodies in relation of persons: convicted to imprisonment, but are not in custody, sentences in relation of whom are entered into legal force;

servicing a sentence in the form of correctional works, deprivation of the right to hold certain positions or engage in certain activity;

5) commanders of the disciplinary military units in relation of military servicemen sentenced to detention in a disciplinary military units.

The relevant civil servants of bodies, listed in this Article shall bear responsibility, established by the legislative acts of the Republic of Kazakhstan in the case of nonfulfillment or improper fulfillment of this Law.

Article 21. Application of this Law shall be carried out on the basis of decree of the authorized body (civil servant), sanctioned by prosecutor, as well as on the basis of decree of court .

Participation of prosecutor is mandatory upon application of this Law by courts.

To the decree of the head of correctional institution or commander of disciplinary military unit shall be attached:

1) certificate of incentives and penalties;

2) convict's personal file;

3) other documents, necessary for solution of issue on application of amnesty.

Service of sentence shall be terminated from the date of sanctioning of decree of authorized body (civil servant) by prosecutor or from the date of entering of decree of court on application of an act of amnesty into legal force.

Article 22. Amnesty shall not be applied in the case, if accused or defendant against this.

Article 23. Bodies, listed in Article 20 shall ensure execution of this Law during six months from the date of its introduction into effect.

In the cases if the issue on application of amnesty occurs upon expire of six months from the date of entering of this Law into legal force, it shall be executed in the manner provided by Articles 20 and 24 of this Law.

Article 24. The issue on application of amnesty to the persons, convicted by courts of the Republic of Kazakhstan, but served a sentence outside shall be solved by courts of the Republic of Kazakhstan on the basis of international treaties, ratified by the Republic of Kazakhstan, on presentation of the competent body of the state, in the territory of which the execution of court verdict is carried out.

Article 25. The Government of the Republic of Kazakhstan, akims of regions, Astana and Almaty cities shall take measures to:

- 1) placement of disabled persons and persons of advanced age, released from punishment on the amnesty and without relatives and friends in the special boarding schools;
- 2) transfer of released minors under the supervision of parents, bodies of guardianship and trusteeship, or their direction them, in the necessary cases, in orphanages, boarding schools or other educational institutions;
- 3) ensuring control of continuation of treatment of consumptives, released from prison.

Article 26. This Law shall be enforced from the date of its official publication.

T h e P r e s i d e n t

of the Republic of Kazakhstan