

On amnesty due to decade of independence of the Republic of Kazakhstan

Unofficial translation

The Law of the Republic of Kazakhstan dated 19 February 2002 No. 294

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This Law is adopted due to decade of independence of the Republic of Kazakhstan, on the basis of principles of humanity.

Article 1. To release convicted persons from punishment for crimes of little and average gravity :

- 1) minor persons ;
- 2) women having minor children or disabled children of groups I and II being on their dependence, as well as pregnant women;
- 3) women and men attained retiring age;
- 4) participants and disabled persons of the Great Patriotic War 1941 – 1945 and persons equated to them ;
- 5) disabled persons of groups I and II.

Article 2. To release the persons that do not fall within the scope of Article 1 of this Law that convicted to deprivation of freedom for crimes of little and average gravity for the first time.

Article 3. To release convicted persons from punishment in the form of deprivation of freedom for crimes of little and average gravity that do not fall within the scope of Articles 1 and 2 of this Law, if they served no less than one third of assigned term of punishment.

Article 4. To release the persons listed in Article 1 of this Law from punishment in the form of deprivation of freedom convicted for grave crimes, if they served no less than one third of assigned term of punishment.

Article 5. To release the persons from punishment that do not fall within the scope of Articles 1-4 of this Law convicted to deprivation of freedom for grave crimes for the first time, if they served no less than a half of assigned term of punishment.

Article 6. To release the persons from punishment that do not fall within the scope of Articles 1-5 of this Law convicted to deprivation of freedom for crimes that are not especially grave, remaining to be served less than a year during the period of execution of act of amnesty established by part one of Article 25 of this Law.

Article 7. To release the persons from punishment convicted to the types of punishment not linked with deprivation of freedom, if this punishment is applied in the form of main punishment.

Article 8. To release the military servants that committed military crimes from punishment, as well as persons liable for military service that avoided calling on military service.

Article 9. To reduce unserved part of punishment by half for the persons convicted to deprivation of freedom that are not subject to release from punishment on the basis of Articles 1 - 8 of this Law :

- 1) convicted for crimes of little and average gravity;
- 2) convicted for grave crimes, if they served no less than a half of assigned term for punishment.

Article 10. To terminate a proceeding on all criminal cases and the cases not considered by courts on crimes committed before entering of this Law into force by the persons listed in Articles 1, 8 of this Law, as well as in respect of the persons brought to criminal responsibility for the crimes for which the punishment is provided up to five years of deprivation of freedom or punishment not linked with deprivation of freedom.

Article 11. To establish that:

- 1) the persons mentioned in subparagraph 1) of Article 1 of this Law shall be regarded as the persons under 18 years at the moment of commission of a crime;
- 2) the persons mentioned in subparagraph 2) of Article 1 of this Law shall be regarded as women not deprived of parental rights and having children, including adopted children or taken in trusteeship under 18 years on the date of entering of this Law into force, or disabled children of groups I and II independently from their age, women being pregnant on a date of entering of this Law into force;
- 3) the persons mentioned in subparagraph 3) of Article 1 of this Law shall be regarded as women and men that attained retiring age in accordance with the legislation of the Republic of Kazakhstan until entering of this Law into force. In the absence of documents confirming the date and month of birth of these persons, the women should be regarded as born before 1 January 1943 and men born before 1 January 1938;
- 4) the persons mentioned in subparagraph 4) of Article 1 of this Law shall be regarded as participants and disabled persons of the Great Patriotic War and persons equated to them:
 - military servants performing their service in military units, staffs and institutions included into composition of active army during the period of the Great Patriotic War, as well as during other combat operation on protection of the former USSR, partisans and undergrounders of the Great Patriotic War;
 - military servants and civilians of units and formations of the Armed Forces of the former USSR participated in combat actions against Japan in 1945;
 - military servants, as well as the persons of command and private staff of the bodies of internal affairs and state security of the formed USSE that performed their service during the Great Patriotic War in cities, the participation in defence of which is included to the years of service for assignment of a pension on preferential terms established for military units of the

organizations of a city or awarded by a medal "For the defence of Leningrad", as well as the persons awarded by a badge "Resident of the blockage of Leningrad";
persons awarded by orders and medals of the former USSR for dedicated service and honourable military service in the rear during the Second World War;
employees and servants that were directed for work to Afghanistan during the period from 1 December 1979 to December 1989 and to other countries in which the combat actions were conducted ;

employees and servants of the National Security Committee of the former USSR temporary staying in a territory of Afghanistan and that are not included into composition of restricted contingent of the soviet troops;
citizens that suffered from and became disabled persons due to Chernobyl NPP disaster and explosions at Semipalatinsk Test Site;
military servants of active army, partisans and undergrounders of the Great Patriotic War, as well as employees and servants of the relevant categories that became disabled due to wound, contusion, injury or disease received during the Great Patriotic War at the front, in a district of combat actions, in front-line fields of railway roads, during building of defensive barriers, naval facilities and aerodromes, and equated to military servants according to pension benefits ;

military servants and civilians of the Armed Forces of the former USSR that became disabled due to wound, contusion, injury or disease received in the course of war with Japan in 1945 ;

military servants that became disabled due to wound, contusion, injury received during protection of the former USSR upon fulfillment of other obligations of military service in other periods or due to disease linked with staying at the front, as well as upon performance of military service in Afghanistan or other states in which the combat actions were conducted;

the persons of command and private staff of the bodies of internal affairs and state security of the former USSR that became disabled due to wound, contusion, injury received upon execution of employment duties or due to disease linked with staying at the front, or fulfillment of employment duties in the states where the combat actions were conducted;

employees and servants of the relevant categories that served active military contingents in other countries and that became disabled due to wound, contusion, injury or disease received during the period of conduct of combat actions;

5) the persons mentioned in subparagraph 5) of Article 1 of this Law shall be regarded as disabled persons of the groups I and II recognized in established manner before entering of this Law into force.

Article 12. The following persons shall fall within the scope of this Law:

1) the persons convicted to which the punishment in the form of deprivation of freedom is assigned under a court verdict with application of Article 63 of the Criminal Code of the Republic of Kazakhstan (Article 40 of the Criminal Code of Kazakh SSR);

2) the pregnant women and women having infant children convicted to deprivation of freedom to whom the execution of a court verdict 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 K a z a k h S S R) ;

3) persons liable for military service that avoided calling on military service, and military servants that committed the crimes of little or average gravity before entering of this Law into force, if they give themselves up to the nearest bodies of military commissariats, military investigative agencies, bodies of military procuracy or military police no later than six months after entering of this Law into force.

Article 13. Force of this Law shall not apply to the persons:

1) recognized special dangerous recidivists under a court verdict, as well as that committed repetition of crimes recognized dangerous or special dangerous;

2) convicted persons to whom the penalty of death is replaced by deprivation of freedom in the manner of act of oblivion;

3) newly committed intended crime to whom the amnesty or act of oblivion were previously applied;

4) recognized as malicious violators of established order of serving a sentence or committed intended crimes during service of the sentence;

5) having two and more records of conviction for commission of grave and especially crimes ;

6) 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 the foreign state (Article 53); diversion (Article 54); wrecking (Article 55); propaganda of war (Article 57); violation of the national and racial equality (part three of Article 60); mercenarism (part two of Article 62-2); banditism (Article 63); actions disorganizing work of correctional institutions (Article 63-1); organization or management of a criminal group or criminal society, participation in a criminal society (part two of Article 63-2); contraband (part two, three and four of Article 64); mass disorders (Article 65); theft or seizure of railway rolling stock, air, marine or river vessel (part two and three of Article 72-1); production or selling of forged money or securities (part two of Article 73); theft (part three of Article 76); brigandage (part three of Article 76-1); robbery (Article 76-2); fraud (part three of Article 76-3); stealing property of other people by assignment or embezzlement or by abuse of official position (part three of Article 76-4); extortion (part three of Article 76-7); intended destruction or damage of property of other people (Article 82) ; intended homicide (Article 88); intended grave bodily injury (part two of Article 93); knowingly endangering of other person by infecting with AIDS and infecting with AIDS (part two of Article 100-1); rape (part two, three and four of Article 101); pederasty (part two of Article 104); capture or detention of a person as hostage (Article 115-1); kidnapping of a human (Article 116); acceptance of a bribe (part two and three of Article 146); infringement

on life of an employee of internal affairs bodies, a people's guard, a person carrying out the inquest, an investigator, a prosecutor, a judge or people's assessors (Article 173-1); bribery or compulsion of a witness, injured party, expert or interpreter to give false evidences (part three of Article 187-1); delivery of knowingly illegal verdict, decision, ruling or decree (part two of Article 191); threat in respect of a person carrying out the inquest, an investigator, a prosecutor, a judge or people's assessors (Article 191-2);

malicious insubordination of the requirements of administration of corrective labour institution (part two of Article 199-2); hooliganism (part two of Article 200); stealing of firearms, ammunition or explosive substances (parts two and three of Article 203); stealing of narcotic drugs (parts two and three of Article 213-1); inducement to use narcotic drugs (part two of Article 213-2); illegal production, acquisition, storage, carriage, transfer or distribution of narcotic drugs (parts three, four and five of Article 214); maintenance of assignation houses and procuration (part five of Article 215-1); theft of transport vehicles (parts two and three of Article 221); insubordination (paragraph "c" of Article 225); non-execution of the order (paragraph "c" of Article 226); resistance to a head or his (her) compulsion to violate employment duties (paragraphs "b" and "c" of Article 227); threat to a head (paragraph "c" of Article 228); acts of violence in respect of a head (paragraph "b" of article 229); violation of charter rules of interrelations between military servants in the absence of dependency relation between them (paragraph "c" of Article 231); authorized leaving of the unit or place of service (paragraph "d" of Article 233); desertion (paragraphs "b" and "d" of Article 234); unauthorized leaving of the unit in combat situation (Article 235); evasion of military service by means of self-injury or by another method (paragraph "b" of Article 236); intended destruction or damage of military property (paragraph "c" of Article 238); violation of the rules of handling with weapon, as well as with substances and subjects representing increased hazard for surrounding persons (paragraph "c" of Article 238-1); violation of flight rules or their preparation (Article 240); violation of the ship navigation rules (Article 241); violation of charter rules of a guard service (paragraph "f" of Article 242); violation of the rules of being on combat duty (paragraphs "c" and "d" of Article 244); divulgence of military secrets or loss of documents containing military secrets (paragraph "c" of Article 246); abuse of powers, excess or inaction of powers (paragraphs "b" and "c" of Article 247); surrender or abandonment of warfare means to a rival (Article 248); abandonment of a warship in distress (Article 249); unauthorized abandonment of battlefield or refusal to act with weapons (Article 250); voluntary surrender into captivity (Article 251); marauding (Article 253); violence against a population in a district of combat actions (Article 254); as well as brigandage (parts three and four of Article 133); robbery (Article 134), extortion (parts two and three of Article 135), intended destruction or damage of property (part two of Article 141) of the Criminal Code of the Kazakh SSR in wording up to 12 May 1995;

7) convicted and brought to criminal responsibility for the following crimes provided in the Criminal Code of the Republic of Kazakhstan: homicide (Article 96); intended infliction

of serious harm to health (Article 103); torture (part two of Article 107); compulsion to remove human organs or tissues for transplantation or otherwise use (parts two and three of Article 113); infecting with Human Immunodeficiency Virus (HIV/AIDS) (part three of Article 116); rape (parts two and three of Article 120); violent sexual actions (parts two and three of Article 121); human kidnapping (Article 125); illegal deprivation of freedom (part three of Article 126); recruitment of people for exploitation (part three of Article 128); involvement of a minor person in criminal activity (part four of Article 131); trafficking of minors (Article 133); planning, preparation, unleashing or prosecution of aggressive war (Article 156); manufacture or distribution of mass destruction weapon (Article 158); application of prohibited means and methods of war prosecution (Article 159); genocide (Article 160); ecocide (Article 161); mercenary activities (Article 162); attack against persons and organizations enjoying international protection (Article 163); initiation of social, national, ancestral, racial or religious discord (part three of Article 164); treason against the state (Article 165); espionage (Article 166); infringement on life of state or public figure (Article 167); forcible seizure of power or forcible retention of power (Article 168); armed rebellion (Article 169); sabotage (Article 171); evasion of calling on mobilization (part two of Article 174); theft (part three of Article 175); assignment or embezzlement of entrusted other people's property (part three of Article 176); fraud (part three of Article 177); brigandage (part three of Article 178); robbery (Article 179); stealing of subjects having special value (Article 180); extortion (parts two and three of Article 181); illegal acquisition of an automobile or other transport vehicle without the purpose of stealing (part three and four of Article 185); intended destruction or damage of other people's property (part three of Article 187); production or distribution of forged money or securities (parts two and three of Article 206); economic contraband (part three of Article 209); terrorism (Article 233); taking of a hostage (Article 234); creation and guidance of an organized criminal group or criminal association (criminal organization), participation in a criminal society (Article 235); organization of illegal paramilitary formation (part one of Article 236); banditism (Article 237); seizure of buildings, structures, or means of communication (parts two and three of Article 238); hijacking, and equally seizure of an air or sea craft or a railway rolling stock (Article 239); piracy (Article 240); mass disorders (parts one and two of Article 241); violation of the safety rules at atomic energy facilities (part two of Article 244); stealing or extortion of radioactive materials (part three of Article 248); contraband of objects withdrawn from circulation, or objects the circulation of which is limited (part three of Article 250); illegal acquisition, transfer, distribution, storage, transportation, or bearing weapons, ammunition, explosive substance and explosion devices (part three of Article 251); illegal manufacture of weapons (part three of Article 252); stealing or extortion of weapons, ammunition, explosive substances or explosion devices (parts two, three and four of Article 255); hooliganism (part three of Article 257); illegal manufacture, processing, acquisition, storage, transportation, transfer or distribution of narcotic drugs or psychotropic substances (parts two, three and four of Article

259); stealing or extortion of narcotic drugs and psychotropic substances (parts two and three of Article 260); inducement to use narcotic drugs or psychotropic substances (parts two and three of Article 261); illegal cultivation of plants, prohibited to cultivation containing narcotic substances (part two of Article 262); illegal turnover of toxic substances, as well as substances, tools, or equipment used for the manufacture or processing of narcotic drugs, psychotropic or toxic substances (parts two, three and four of Article 263); organization or maintenance of premises for use of narcotic drugs or psychotropic substances (part two of Article 264); intentional disablement of transport vehicles or routes of communication (part three of Article 299); abuse of official powers (part three of Article 307); excess of authority or official powers (part three of Article 308); acceptance of a bribe (parts two, three, four of Article 311); use of force in respect of a representative of power (part two of Article 321); infringement on life of a person, delivering public justice or preliminary investigation (Article 340); threat or forcible actions due to delivery of public justice or conduct of preliminary investigation (part four of Article 341); bringing of knowingly innocent person to criminal responsibility (part two of Article 344); knowingly illegal detention, placement in the detention or custodial placement or detention in custody (part three of Article 346); compulsion of evidence (part two of Article 347); delivery of knowingly unjust verdict, decision or other court act (part two of Article 350); knowingly false denunciation (part three of Article 351); tampering or compulsion of false evidence or evasion of evidence, false report or incorrect interpretation (part four of Article 354); escape from places of deprivation of freedom, arrestment or from custody (part two of Article 358); malicious insubordination to requirements of the administration of a criminal executive institution (Article 360); disorganization of normal activity of institutions ensuring the isolation from society (article 361); insubordination or other failure to comply with order (parts three and five of Article 367); resistance to a head or his (her) enforcement to violate employment duties (parts two and three of Article 368); acts of violence with regard to a head (parts two and three of Article 369); violation of charter rules of interrelations between military servants in the absence of dependency relation between them (parts five and six of Article 370); authorized leaving of the unit or place of service (parts five and six of Article 372); desertion (parts two and three of Article 373); evasion of military service by means of self-injury or by another method (parts two and three of Article 374); violation of the rules of being on combat duty (parts two and three of Article 375); violation of charter rules of guard (night watch) duty (part two of Article 377); abuse of powers, excess or inaction of powers (parts two and three of Article 380); abandonment of a warship in distress (part two of Article 382); surrender or abandonment of warfare means to a rival (Article 383); voluntary surrender into captivity (Article 384); marauding (Article 385); divulgence of military security information or loss of documents containing military security information (part three of Article 386); violation of flight rules or their preparation (Article 392); violation of the ship navigation rules (Article 393);

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Subparagraphs 6) and 7) of this Article shall not apply to persons listed in Article 6 of this Law.

Article 14. The ground for applying amnesty in respect of persons listed in subparagraphs 2), 4) and 5) of Article 11 of this Law are the documents conforming the right of these persons to benefits.

Article 15. To establish that service of a part of the term of sentence provided by Articles 3-5, 9 of this Code shall be calculated on a date of entering of this Law into force.

Article 16. Upon aggregate of crimes, if one of the crimes does not fall within the scope of this Law, the amnesty shall not be applied.

Article 17. The persons included in the amnesty shall be released as from the main, so additional sentence, if the last is not executed on a date of entering of this Law into force.

Article 18. In accordance with Article 9 of this Code, the part of the term of sentence that is not served on a date of entering of this Law into force, shall be subject to reduction.

Article 19. The persons the record of conviction of which is not expunged or removed in the manner established by the Law, as well as the persons convicted for crimes the responsibility of which is excluded by the Law shall be included in the amnesty.

Article 20. The force of subparagraph 3) of Article 13 of this Law shall apply to the persons previously released from sentence in advance in the manner of the act of oblivion or on the basis of amnesty, independently from expunging or removal of record of conviction.

Article 21. The force of this Law shall apply to the persons that committed crimes before its entering into force, to the convicted persons by courts of the Republic of Kazakhstan (Kazakh SSR), as well as by military tribunals of the former USSR for the crimes committed in a territory of the Kazakh SSR.

Article 22. To impose execution of this Law on:

- 1) bodies and institutions executing punishments in respect of convicted persons being in the places of deprivation of freedom;
- 2) bodies of inquiry and preliminary investigation in respect of the persons, the case and materials on crimes of which are in the proceeding of these bodies;
- 3) courts in respect of:
persons, the case and materials on crimes of which are in the proceeding of courts and that are not considered before entering of this Law into force, as well as in respect of the persons, the cases on crimes of which are considered, but the verdicts are not entered into legal force;
persons under suspended sentence 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 respect of the persons the execution of verdicts to 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) (amnesty shall be applied by a court that delivered a v e r d i c t) ;
persons in respect of whom the fine is assigned as the main punishment, if the fine is not

recovered before entering of this Law into force (amnesty shall be applied by a court that delivered a verdict);

persons released from punishment on parole, and the persons in respect of whom the unserved part of punishment is replaced by more lenient punishment before entering of this Law into force (amnesty shall be applied by a court in a territory of which the person is registered);

4) internal affairs bodies in respect of the persons: convicted to deprivation of freedom but that are not remained under custody, the verdicts in respect of whom entered into legal force;

serving their sentence in the form of bringing to community works, correctional works, deprived of the right to hold particular positions or engage in particular activity;

5) commanders of disciplinary military units in respect of military servants convicted to detention in the disciplinary military units.

Article 23. Application of this Law shall be carried out on the basis of a decree of an authorized body (civil servant) sanctioned by a prosecutor, as well as on the basis of the court decree.

Upon application of this Law by courts, the participation of a prosecutor is not mandatory.

The decree of a head of correctional institution or a commander of disciplinary military unit and detention quarters shall be accompanied by:

1) certificate on incentives and recoveries;

2) personal record of a convicted person;

3) other documents required for solution of the question on applying amnesty.

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

Article 24. Amnesty shall not be applied in case if the accused person or person on trial opposes this.

Article 25. To ensure the execution of this Law within six months from the date of its entering into force, to the bodies listed in Article 22.

In cases if the question on applying amnesty is occurred upon expiry of the term of six months from the date of entering of this Law into force, it shall be executed in the manner provided by Articles 22 and 26 of this Law.

Article 26. The question on applying amnesty to persons convicted by courts of the Republic of Kazakhstan but serving the sentence beyond its boundaries, shall be solved by the courts of the Republic of Kazakhstan on the basis of international treaties, the participant of which is the Republic of Kazakhstan upon recommendation of a competent body of the state, in a territory of which the execution of the court verdict is carried out.

Article 27. The government of the Republic of Kazakhstan, akims of oblasts, cities of Almaty and Astana shall be obliged to take measures on:

1) placement of disabled persons and persons of advanced age released from the punishment according to the amnesty and that do not have close relatives in special nursing homes ;

2) transfer of released minor persons under the supervision of parents, bodies of trusteeship and guardianship or their direction to children's houses, foster homes or other educational institutions in necessary cases;

3) control of continuation of the medical treatment of the persons released from the places of deprivation of freedom, suffered from tuberculosis.

Article 28. This Law enters into legal force from the date of official publication.

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

of the Republic of Kazakhstan