

## On operational investigations

### *Unofficial translation*

Law of the Republic of Kazakhstan dated 15 September 1994.

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**Footnote.** Throughout the text after the words “Section” numbers “I-VII” are substituted with the numbers “1-7” in accordance with the Law of the Republic of Kazakhstan dated 20 December 2004 No. 13 (shall be enforced from 1 January 2005).

This Law shall determine content of operational investigations, carried out on the territory of the Republic of Kazakhstan, and shall establish a system of legal guarantees of legality upon its carrying out.

### **Section 1. General provisions Article 1. Basic definitions, used in this Law**

The following basic definitions shall be used in this Law:

- 1) survey of persons – collecting factual information of importance for the solution of tasks of operational investigations, according to the interviewee, that has or may have it.
- 2) inquiries – obtaining factual information relevant to the solution of tasks of operational investigations, by sending an official request to an appropriate individual or legal entity who or that is likely to have information of interest;
- 3) special operational investigations activity - operational investigations activity that directly affect legally protected privacy, secrecy of correspondence, telephone conversations, telegraph messages and postal parcels, as well as the right to inviolability of residence;
- 4) special technical means - devices, equipment, instruments, equipment with special functions, software and design features for obtaining and documenting information during operational and investigative activities and covert investigative actions;
- 5) observation - visual and other perception and fixation of phenomena, actions, events, processes which are significant for solving the tasks of the operational investigations;
- 6) an operational search on communication networks - the tacit actions on detection of signs of illegal activity in information, transmitted via communications network;
- 7) electronic surveillance of computers, servers and other devices intended for collection, processing, accumulation and storage of information, - electronic surveillance of computers, servers and other devices intended for collection, processing, accumulation and storage of information by special technical means and (or) computer programs, made, if necessary, by secret penetration and (or) inspection;
- 8) controlled delivery –a way of getting information about the signs of criminal activity by establishing control over delivery, buying, selling, movement of objects, substances and

products, a free implementation of which is prohibited or circulation of which is limited, as well as objects or instruments of criminal encroachment;

9) search for and identification of the individuals by signs - a set of organizational and substantive and practical actions aimed at detection and identification of a searched person on individualizing his static, dynamic and genomic characteristics, as well as using verbal portrait and other ways with reasonable certainty, to identify a person;

10) penetration - the tacit implementation of an employee of authority carrying out operational investigation, or cooperating with him confidential assistant in the environment of operational object of interest for solving tasks of the operational investigations.

11) total operational investigation activity - a set of related unified tactical, strategic plan of actions of bodies that carry out operational investigations, aimed at solving tasks of this activity;

12) case of operating account - a separate production, kept by body conducting operational investigations;

13) secret penetration and (or) site inspection - secret penetration into residential, office, industrial premises, buildings, structures, storage, a vehicle or a site, if necessary, with their examination, as well as to solve other tasks of operational search activities;

14) operational purchase - creating a situation of a fraudulent transaction, in which with the consent of an authority carrying out operational investigations, and under its control items are being acquired for a fee from a studying person without intent to consume or sell them with the purpose of obtaining information about possible criminal activity;

15) operational and investigative activity - a scientifically grounded system of overt and covert operational and investigative, organizational and managerial activities carried out in accordance with the Constitution of the Republic of Kazakhstan, this Law and other normative legal acts of the Republic of Kazakhstan by the bodies engaged in operational and investigative activity for the purpose of protecting life, health, rights, freedom and lawful interests of a human and citizen, property, ensuring the security of society and the state against criminal infringement;

15-1) the results of operational and investigative activity - information, documents, items or materials obtained for solving the problems listed in Article 2 of this Law;

16) detection, secret fixation and confiscation of traces of illegal acts, their preliminary research - identifying and removing from circulation or possession of a specific person of material objects, which preserved the traces of a crime or were being as an instrument of a crime or result of criminal activities and fixation in conditions provided for by the law of their characteristic signs and properties;

17) confidential helpers – individuals that have reached eighteen years of age, eligible, who agreed to cooperate on a confidential basis (including by contract) with a body carrying out operational investigations, as well as previously collaborated with their own consent with a specified authority;

18) secret control of mail and other items - receiving information relevant to the case by viewing and studying the contents of letters, telegrams, radiograms, postal packets, parcels and other mail and telegraph items;

19) secret audio and (or) video control of a person or place - secret control of speech and other information, as well as actions of a person and (or) events occurring in a strictly defined place, carried out if necessary by secret penetration and (or) examination, with the use of video, audio equipment or other special scientific and technical means with the simultaneous fixation of their contents on a tangible medium;

20) secret receipt of information about connections between subscribers and (or) subscriber devices - receiving information about the date, time, duration of connections between subscribers and (or) subscriber devices (user equipment);

21) secret monitoring of electric (telecommunication) communication networks - secret listening and (or) recording of voice information using scientific and technical means and (or) computer programs transmitted by telephone or other devices that allow to transmit voice information produced, if necessary, by secret penetration and (or) inspection.

Interception and recording of information transmitted over electric (telecommunication) communication networks - interception and recording of signs, signals, voice information, written text, images, video images, sounds and other information transmitted via wired, radio, optical and other electromagnetic systems;

22) receipt of sample - withdrawal and fixation of material information carriers, displaying the properties of a living person, corpse, animal substances, of a subject of importance for solving of tasks of operational investigations;

23) staff covert employee - an employee of the body carrying out operational and investigative activity, whose duties include conducting operational and investigative activities and covert investigative actions in a conspiratorial manner;

24) investigation - a system of organizational, procedural and operational and investigative activities aimed at establishing the location of persons who have fled from investigation, inquiry or court, evading criminal responsibility, serving punishment or probation control, missing persons and other persons, in cases provided for by law, as well as lost documents and articles containing information which constitutes state secrets.

Footnote. Article 1 is in the wording of the Law of the Republic of Kazakhstan dated 17.07.2009 No. 187-IV; as amended by the Law of the Republic of Kazakhstan dated 07.12.2009 No. 221-IV (the order of the entry into force see article 2); dated 04.07.2014 № 233-V (shall be enforced from 01.01.2015); dated 28.12.2016 № 36-VI (shall be enforced upon expiry of two months after the day its first official publication); dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 21.12.2017 № 118-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

## **Article 2. Tasks of operational investigations**

The tasks of operational and investigative activity shall be:

- 1) protection of life, health, rights, freedom, lawful interests of a human and citizen, property from unlawful infringements;
- 2) assistance in ensuring the security of society, the state and strengthening its economic potential and defense capability;
- 3) detection, prevention and suppression of crimes;
- 3-1) identification of persons who have committed a criminal offence, as well as objects and documents that are significant for the criminal case;
- 4) implementation of measures to search for persons hiding from the bodies of inquiry, investigation and court evading criminal responsibility, serving punishment or probation control, missing citizens and other persons in cases provided for by law, as well as identification of discovered unidentified corpses;
- 5) ensuring the security of the President of the Republic of Kazakhstan and other protected persons;
- 6) securing the state border of the Republic of Kazakhstan;
- 7) ensuring the protection of information constituting state secrets or other secrets protected by law;
- 8) assistance to organizations in the protection of commercial secret;
- 9) maintenance of the regime, established by the legislation of the Republic of Kazakhstan in the places of detention or imprisonment;
- 10) ensuring the security of the suspected, accused, defendants, convicted, personnel in places of detention or imprisonment and other persons;
- 11) ensuring the safety of the bodies carrying out operational and investigative activity.

**Footnote. Article 2 in the new wording of the Law of the Republic of Kazakhstan dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); as amended by the Law of the Republic of Kazakhstan dated 27.12.2019 No. 292-VI (the order of enforcement see Article 2).**

## **Article 3. Principles of operational investigations**

Operational investigations shall be carried out in accordance with the principles of legality, observance of human rights and freedoms, respect for human dignity, equality of citizens before the law, on the basis of conspiracy, combination of open and secret methods, professional ethics.

## **Article 4. Legal basis of operational investigations**

1. legal basis of operational investigations shall consist of the Constitution of the Republic of Kazakhstan, this Law and other regulatory legal acts of the Republic of Kazakhstan.

1-1. If an international treaty ratified by the Republic of Kazakhstan establishes different rules than those contained in this Law, the rules of an indicated treaty shall be applied.

2. Bodies that carry out operational investigations in consultation with the Prosecutor-General of the Republic, shall issue, within their competence on the basis of this Law, regulatory legal acts regulating the organization and tactics of carrying out of operational investigations.

**Footnote. Article 4 as amended by the Law of the Republic of Kazakhstan dated 09.08.2002 No. 346; dated 17.07.2009 No. 187-IV.**

## **Article 5. Observance of rights and freedoms of individuals upon implementation of operational investigations**

1. Carrying out operational investigations, as well as using obtained information during conduction to achieve the goals and objectives, not provided for by this Law shall be prohibited.

2. Actions of a body conducting operational investigation activity can be appealed against in a higher body or to a public prosecutor's office or in a court.

3. A person, whose guilt in the preparation or commission of a crime has not been proved in accordance with the procedure provided for by law, shall be entitled to request from an authority, carrying out operational investigation activity the information, that served as the basis for verification and nature of available information within precluding disclosure of state or other secrets protected by law.

In the event that the decision of the body carrying out the operative-search activity on refusal to provide the necessary information to the applicant is recognized unreasonable, the court by its reasonable decision, and the prosecutor, through the procedure of prosecutorial supervision, shall have the right to oblige the said body to provide the applicant with the information provided for in paragraph 3 of this article.

4. With the purpose of ensuring the completeness and comprehensiveness of a complaint on demand of a prosecutor or a judge all official documents except for the information about an identity of confidential assistants and staff secret employees shall be given.

5. Obtained in the result of operational investigation activity information concerning private life, honour and dignity, if they do not contain information concerning commitment of a prohibited by the law of action, shall not be subjected to storage and shall be destroyed.

The materials obtained as a result of carrying out operational and investigative activity in relation to persons whose guiltiness in committing a crime has not been proved in accordance with the procedure provided for by law, as well as those for whom no pre-trial investigation was conducted, shall be kept for one year from the moment of termination of the relevant case of operational record, and then shall be destroyed. Phonograms and other materials obtained as a result of wiretapping of telephone and other communications of persons for whom no pre-trial investigation was initiated shall be destroyed within six months from the moment of

termination of the relevant case of operational records, and the protocol shall be issued. Three months prior to the day of destruction of materials reflecting the results of operational and investigative activities conducted on the basis of the prosecutor's sanction, a relevant prosecutor shall be notified about this fact.

The procedure and terms of storage and destruction of results of operational and investigative activities, obtained in the process of intelligence activity, as well as in the field of countering extremism and terrorism, shall be established by departmental normative legal acts.

**Footnote. Article 5 as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 187-IV; dated 27.05.2010 No. 279-IV (the order of the entry into force see article 2); dated 03.11.2014 № 244-V (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 04.07.2014 № 233-V (shall be enforced from 01.01.2015); dated 28.12.2016 № 36-VI (shall be enforced upon expiry of two months after the day its first official publication); dated 12.07.2018 No. 180-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).**

## **Section 2. Bodies, carrying out operational investigations, their responsibilities and rights Article 6 . Bodies, carrying out operational investigations**

1. On the territory of the Republic of Kazakhstan operational investigations shall be carried out by:

- 1) bodies of internal affairs;
- 2) national security agencies;
- 3) an authorized body in the field of foreign intelligence services;
- 4) bodies of military intelligence of the Ministry of defence;
- 5) anti-corruption service;
- 6) State protection service of the Republic of Kazakhstan;
- 7) Economic Investigation Service.

2. List of bodies, carrying out operational investigation activity, can be amended or supplemented only by the Law.

**Footnote. Article 6 is in the wording of the Law of the Republic of Kazakhstan dated 18.01.2012 No. 547-IV (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 04.07.2014 No. 233-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 07.11.2014 № 248-V (shall be enforced upon expiry of ten calendar days after the day its first official publication).**

## **Article 7. Responsibilities of bodies, carrying out operational investigations**



Upon carrying out the tasks defined by this Law authorized bodies of operational investigations shall be obliged to:

a) adopt, in accordance with their competence necessary measures for the protection of legally protected rights, freedoms and interests of individuals and legal entities, property, the security of the society state and strengthening its economic and defence potential;

b) to ensure detection, prevention and suppression of crimes through implementation of operational and investigative activities and covert investigative actions, recording their results for the use in criminal proceedings, to execute written instructions of the investigator to conduct operational and investigative activities on the criminal cases being investigated by him;

b-1) fulfill written instructions of prosecutor, the data during implementation of supervision over the legality of operational investigation activity;

b-2) to execute judicial acts on the search for a hiding criminal defendant and a civil defendant, a person evading serving a sentence or probation control, as well as decisions of bailiffs sanctioned by the prosecutor on the search for a debtor in enforcement proceedings;

c) timely inform public authorities and administration in the Republic of Kazakhstan on the known facts and evidence about the threat to the security of society and the state;

d) take necessary measures to ensure secrecy upon conducting of operational and investigative activities and covert investigative actions, as well as in the transfer of materials reflecting the results of conducted operational and investigative activities and covert investigative actions, for the use in criminal proceedings and to prevent declassification of information sources.

e) take necessary measures to ensure secrecy upon carrying out operational investigations, as well as upon sending materials showing results of operational investigation actions for use in a criminal process and prevent the declassification of sources of information.

**Footnote. Article 7 as amended by the Law of the Republic of Kazakhstan dated 16.03.2001 No. 163; dated 17.07.2009 No. 187-IV; dated 04.07.2014 № 233-V (shall be enforced from 01.01.2015); dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 26.06.2020 No. 349-VI (shall be enforced ten calendar days after the day of its first official publication).**

## **Article 8. Rights of bodies carrying out operational investigations**

The bodies authorized to carry out operational and investigative activity shall have the right:

1) to perform within its competence overtly and covertly operational and investigative measures listed in Article 11 of this Law, as well as covert investigative actions specified by the Code of Criminal Procedure of the Republic of Kazakhstan on the investigator's instruction;

2) to create and use operational records and information systems ensuring the resolution of tasks of operational and investigative activity;

3) to use during operational and investigative activities and covert investigative actions under a written or oral agreement, residential and non-residential premises, vehicles, as well as other property of individuals and legal entities, military units with compensation of damage to the owners in the event of its cause, as well as expenses from the bodies that carry out operational and investigative activity and covert investigative actions;

4) in order to create secret organizations, to use documents encrypting employees, departmental affiliation of units, organizations, premises and vehicles of the bodies carrying out operational and investigative activity and covert investigative actions, as well as the identity of confidential assistants;

4-1) to develop and approve the rules for the operation of vehicles of the bodies carrying out operational and investigative activity;

5) to use the assistance of officials and specialists possessing necessary scientific and technical or other special knowledge;

6) to receive on a free of charge basis and use information from other organizations that is important for resolving the tasks of operational and investigative activity in compliance with the requirements set forth in legislative acts of the Republic of Kazakhstan for disclosure of information constituting commercial, banking and other secrets protected by law;

7) to attract in coordination with other bodies that have the right to carry out operational and investigative activity and covert investigative actions on the territory of the Republic of Kazakhstan, the forces and resources of these bodies for carrying out certain measures;

8) to enter the territory and premises of the organizations without hindrance at any time of the day, and to the territory of military units and other restricted access facilities, the protection of which is carried out in accordance with military regulations by military servicemen, as well as by law enforcement and special state bodies, as agreed with their supervisors or by the heads of central state bodies, which include restricted access facilities or military units, only for the purpose of carrying out operational and investigative activities, provided for by Article 11 of this Law, and covert investigative actions;

9) to register and (or) transfer information on criminal offenses identified during operational and investigative activities with application of supporting materials in accordance with the procedure and terms established by the criminal procedure legislation of the Republic of Kazakhstan.

**Footnote. Article 8 in the new wording of the Law of the Republic of Kazakhstan dated 04.07.2014 № 233-V (shall be enforced from 01.01.2015); as amended by the Law of the Republic of Kazakhstan dated 03.07.2017 № 84-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication).**

## **Article 9. Responsibilities of officials, carrying out operational investigations**



1. Employees that have committed illegal actions upon carrying out of operational investigation actions shall bear responsibility in accordance with the laws of the Republic of Kazakhstan.

2. The damages caused by the actions of authorities carrying out operational investigation activity shall be reimbursed by them in accordance with the procedure provided for by the legislation of the Republic of Kazakhstan.

**Footnote. Article 9 as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 187-IV.**

### **Section 3. Carrying out of operational investigations measures Article 10. Bases for carrying out operational investigative measures**

1. The bases for execution of operational investigativemeasures shall be:
- a) availability of pre-trial investigation materials;
  - b) received by the bodies that carry out operational investigative activities, information on :
    - being prepared, being committed or committed offence;
    - persons hiding from the bodies of inquiry, investigation and court or deviating from criminal punishment;
    - unknown absence of citizens and the discovery of unidentified corpses;
    - intelligence and subversive actions of special services of foreign states and international organizations;
  - c) written orders of an investigator on criminal cases being investigated by:
    - c-1) of the decision of the General Prosecutor of the Republic of Kazakhstan, his first deputy or deputies, prosecutors of oblasts and prosecutors equated to them, as well as written instructions of the prosecutor given during the supervision over the legality of operational and investigative activity;
    - c-2) judicial acts on the search for a defendant in a criminal case and a defendant in civil cases, a person evading serving a sentence or probationary control, as well as decisions of bailiffs sanctioned by the prosecutor to search for a debtor in enforcement proceedings;
  - d) requests of international law enforcement organizations and law enforcement agencies of foreign states in accordance with a contract (agreements) on legal assistance;
  - e) the need to obtain intelligence information in the interests of society, state and strengthening its economic and defense capabilities;
  - f) the need to provide the safety of protected persons, in respect of whom decisions on providing personal safety have been issued by the authorized state bodies, in the manner prescribed by the legislation of the Republic of Kazakhstan.
2. The bodies that carry out operational investigation activities, within its competence on its own initiative or the initiative of other state bodies shall be entitled to collect the data, characterizing the personality, necessary for decision making on:

- the employment or service in bodies carrying out operational investigation activity;
  - on admittance of legal entities and individuals to work for the protection and maintenance of strategic and protected objects, as well as onto the environment of protected persons. List of strategic and protected objects, as well as of protected persons shall be determined by the legislation of the Republic of Kazakhstan;
  - on issues of ensuring the security of the bodies, carrying out operational investigation activity;
  - on admission to work related to operation of objects and facilities representing an increased emergency or environmental hazard, the list of which shall be determined by the Government of the Republic of Kazakhstan;
  - on admission to participation in operational investigation activities or access to materials obtained as a result of its implementation;
  - on granting a license to engage in security activities.

3. Specified grounds shall be exhaustive and can be amended or modified only by the law.

**Footnote. Article 10 as amended by the decree of the President that have the force of the Law dated 25.12.1995 No. 2725; by the Laws of the Republic of Kazakhstan dated 15.07.1996 No. 31; dated 16.03.2001 No. 163; dated 16.07.2001 No. 244 (shall be enforced from 01.01.2002); dated 10.07.2002 No. 338; dated 09.08.2002 No. 346; dated 09.07.2004 No. 592; dated 12.01.2007 No. 222 (shall be enforced upon expiry of six months after its first official publication); dated 17.07.2009 No. 187-IV; dated 27.05.2010 No. 279-IV (the order of the entry into force see article 2); dated 04.07.2014 № 233-V (shall be enforced from 01.01.2015); dated 28.12.2016 № 36-VI (shall be enforced upon expiry of two months after the day its first official publication); dated 18.04.2017 № 58-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 26.06.2020 No. 349-VI (shall be enforced ten calendar days after the day of its first official publication); dated 03.01.2023 No. 188-VII (shall be enforced sixty calendar days after the date of its first official publication).**

## **Article 11. Operational investigation measures**

1. Operational investigation measures shall be divided into general and special.
2. General operational investigative activities shall be:
  - 1) questioning of persons;
  - 2) establishment of public and private relations with citizens, using them in operational investigative activity;
  - 3) penetration;
  - 4) application of a model of conduct imitating a criminal activity;
  - 5) establishment of secret enterprises and organizations;
  - 6) controlled delivery;

7) use of technical means for getting information that does not affect legally protected inviolability of private life, dwelling, personal and family secrets and confidentiality of personal deposits and savings, correspondence, telephone conversations, mail, telegraph and other messages;

8) inquiries;

9) receipt of samples;

10) operational purchase;

11) use of sniffer dogs;

12) search for and identification of the individual signs;

13) a search of devices illegal withdrawal of information;

14) discovery, secret fixation and confiscation of traces of illegal acts, their preliminary study;

15) prosecution of individual preparing, committing or that has committed a crime and his detention;

16) carrying out with participation of witnesses of personal search of detainees, confiscation of things and documents that may be related to criminal activity, as well as inspection of residential premises, working and other places, inspection of vehicles.

During the antiterrorist operation, a personal search and inspection of personal belongings of individuals, inspection of vehicles, including the use of technical means, can be carried out without the participation of witnesses;

17) carrying out operations to capture armed criminals;

18) monitoring.

Organization and tactics of conducting general operational and investigative activities provided for by this paragraph shall be determined by the normative legal acts approved by the first heads of the bodies, carrying out operational and investigative activities, in agreement with the General Prosecutor of the Republic of Kazakhstan.

3. Special operational investigative measures shall be:

1) secret audio and (or) video control of a person or place;

2) secret monitoring, interception and recording of information transmitted over electric (telecommunication) communication networks;

3) secret receipt of information about connections between subscribers and (or) subscriber devices;

4) secret recording of information from computers, servers and other devices designed to collect, process, accumulate and store information;

5) secret control of mail and other items;

6) secret penetration and (or) site inspection.

Organization and tactics of conduct of special operational-search measures provided for by this paragraph shall be determined by the regulatory legal acts of the first heads of the

bodies conducting operational-search activities, as agreed with the Prosecutor General of the Republic of Kazakhstan.

4. Operational and investigative activities listed in subparagraphs 1), 2), 5), 6), 7), 8), 9), 11), 12), 13), 14), 15), 16) and 17 ) of paragraph 2 of this article may be carried out as investigative measures in accordance with the provisions of the criminal procedure legislation of the Republic of Kazakhstan.

**Footnote.** Article 11 is in the wording of the Law of the Republic of Kazakhstan dated 17.07.2009 No. 187-IV; as amended by the Law of the Republic of Kazakhstan dated 07.12.2009 No. 221-IV (the order of the entry into force see article 2); dated 04.07.2014 № 233-V (shall be enforced from 01.01.2015); dated 03.07.2017 № 84-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 21.12.2017 № 118-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 12.07.2018 No. 180-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

## **Article 12. Conditions of carrying out operational investigative measures**

1. Citizenship, gender, nationality, place of residence, social, official and property status, belonging to public associations, religion and political convictions of citizens shall not be an obstacle for carrying out in relation to them of operational investigation measures on the territory of the Republic of Kazakhstan, unless otherwise stipulated by the law.

2. General and special operational investigative activities shall be carried out by all bodies that are entitled to carry out operational investigative activities, in accordance with the tasks assigned to them.

Bodies, carrying out operational investigative activity, shall be entitled to carry out operational investigative measures in the facilities of criminal-executive system of the Ministry of Internal Affairs of the Republic of Kazakhstan in cooperation with authorized bodies of criminally-executive system or by its territorial subdivisions.

Operational and investigative activities at the facilities of operational support of the State Security Service of the Republic of Kazakhstan and in the zone of security measures shall be carried out in agreement with the State Security Service of the Republic of Kazakhstan.

3. List of services, departments and categories of employees who are authorized to carry out operational investigative activities, shall be determined by the heads of the bodies that carry out operational investigative activities.

4. Special operational-search measures shall be carried out exclusively with the sanction of the prosecutor:

1) in order to identify, prevent and suppress grave and especially grave crimes, as well as crimes of medium gravity, provided for in Articles 116 (part one), 126 (parts one and two), 161 (part one), 185 (parts one and two) , 188 (part two), 188-1 (part one), 189 (part two), 190 (part two), 194 (part one), 195 (parts four and five), 197 (part three), 207 (part two), 210 (part

one), 211 (part two), 213 (part three), 216 (part one and two), 218 (parts one and two), 231 (part one), 232 (part one), 234 (part two), 245 (parts one and two), 272 (part three), 283 (part one), 286 (part one), 287 (part three), 288 (part one), 307 (part two), 308 (part one), 309 (part one), 315 (part one), 361 (part three), 362 (part one), 365 (part two), 366 (part one), 367 (part one), 394 (part two), 399 (part two), 422 (parts one and two) of the Penal Code of the Republic of Kazakhstan, and crimes committed by a criminal group against the investigated person or a third party, if there is information that the investigated person uses a telephone or other communication means of a third party, or there is information that a third party receives information for the investigated person or from the investigated person for transfer to other persons using a telephone and other communication means and fixing its content on a tangible medium;

2) for implementation of measures to search for persons hiding from the investigation, inquiry, court and evading criminal liability for the crimes specified in part four of Article 232 of the Criminal Procedure Code of the Republic of Kazakhstan, as well as missing persons.

Sanctions for such events by order of the bodies engaged in operational-search activities shall be given by the Prosecutor General of the Republic of Kazakhstan, his first deputy or deputies, the Chief military prosecutor, prosecutors of the regions and equivalent prosecutors.

Special operational-search measures related to the use of a communication network in the interest of solving problems by all bodies listed in Article 6 of this Law shall be technically carried out by the national security bodies of the Republic of Kazakhstan, for which the necessary forces and means are allocated.

The organization and tactics of conducting special operational-search activities related to the use of a communication network shall be determined by a joint regulatory legal act of the first heads of the bodies conducting operational-search activities, as agreed with the Prosecutor General of the Republic of Kazakhstan.

In order to obtain intelligence information, ensure the military security of the Republic of Kazakhstan and the security of protected persons, the authorized body in the field of foreign intelligence, military intelligence bodies of the Defense Ministry of the Republic of Kazakhstan and the State Guard Service of the Republic of Kazakhstan shall be entitled to carry out special operational-search measures using telecommunication networks that exclude connection to stationary equipment and communication lines of individuals and legal entities providing services and communication devices in the Republic of Kazakhstan.

5. Exceptionally for obtaining intelligence information in order to ensure security of the Republic of Kazakhstan, as well as to obtain information in order to ensure the security of protected individuals, special operational and investigative activities may be carried out in accordance with the procedure agreed with the General Prosecutor of the Republic of Kazakhstan.

6. In cases of a threat to the life, health, property of particular individuals on their request or with their written consent shall be allowed to listen to and record conversations, negotiations, made on their phones or other negotiation devices on the basis of a resolution approved by the head of a body, carrying out operational investigative activity, with obligatory notification of a prosecutor within twenty-four hours from the moment of taking a resolution.

7. Special operational and investigative activities with notification of the Prosecutor and subsequent receipt of the sanction within twenty-four hours from the date of the decision shall be allowed in cases that are urgent and can lead to commission of grave and particularly grave crimes, as well as crimes prepared and committed by a criminal group, on the basis of a reasoned decision of one of the heads of the relevant body conducting operational and investigative activity.

If the Prosecutor's sanction is not received within a specified period, special operational and investigative activity shall be immediately terminated.

Special investigative measures in relation to a judge of the Constitutional Court of the Republic of Kazakhstan may be undertaken only with the authorisation of the Prosecutor General of the Republic of Kazakhstan.

Special operational-search measures against a judge may be undertaken only with the sanction of the Prosecutor General of the Republic of Kazakhstan.

8. Upon receipt of a sanction to carry out special operational investigation activities, a prosecutor shall be submitted with materials: base for their conduct, in the form and content of excluding the possibility of decoding information about the identity of confidential assistants and staff unspoken employees.

the results of special operational investigative measures shall be notified to a prosecutor, who had sanctioned its execution.

9. Organisation and tactics of carrying out covert operational investigative measures can compose official, military or state secrets in accordance with the List of information, subjected to classification, approved by the Government of the Republic of Kazakhstan on the basis of the Law of the Republic of Kazakhstan "On state secrets".

**Footnote. Article 12 as amended by the decree of the President that have the force of the Law dated 25.12.1995 No. 2725; by the Laws of the Republic of Kazakhstan dated 15.07.1996 No. 31; dated 16.03.2001 No. 163; dated 16.07.2001 No. 244 (shall be enforced from 01.01.2002); dated 19.02.2002 No. 295; dated 10.07.2002 No. 338; dated 09.08.2002 No. 34; dated 09.07.2004 No. 592; dated 29.12.2004 No. 25; dated 08.07.2005 No. 67 (the order of the entry into force see article 2); dated 17.07.2009 No. 187-IV; dated 17.12.2009 No. 221-IV (the order of the entry into force see article 2); dated 27.05.2010 No. 279-IV (the order of the entry into force see article 2); dated 29.11.2011 No. 502-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 18.01.2012 No. 547-IV (shall be enforced upon expiry of ten calendar days after its first official publication);**



dated 08.01.2013 No. 63-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 04.07.2014 (the order of enforcement see Article 2); dated 07.04.2014 № 185-V (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 04.07.2014 № 233-V (the order of enforcement see Art. 2); dated 03.11.2014 № 244-V (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 22.12.2016 № 28-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 28.12.2016 № 36-VI (shall be enforced upon expiry of two months after the day its first official publication); dated 21.12.2017 No. 118-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 27.12.2019 No. 292-VI (the order of enforcement see Article 2); dated December 19, 2020 No. 384-VI (shall be enforced ten calendar days after the day of its first official publication); No. 157-VII of 05.11.2022 (shall be effective since 01.01.2023); dated 27.03.2023 No. 216-VII (shall be enforced ten calendar days after the date of its first official publication); dated 12.07.2023 No. 23-VIII (shall be enforced sixty calendar days after the date of its first official publication).

### **Article 13. Assistance to the bodies, carrying out operational investigative activities**

1. Officials and other employees of state bodies, organizations, military units, formations and public associations of the Republic of Kazakhstan shall be obliged to provide assistance to the bodies, carrying out operational investigative activity, with the decision of tasks provided for in article 2 of this Law, and shall not be entitled to prevent those bodies to carry out operational investigative activities within their competence.

2. Individual citizens can, with their consent, be involved in the preparation and carrying out of operational investigative measures (including by contract) with preservation upon their will of privacy of cooperation with the bodies, carrying out operational investigative activity. These persons shall be obliged to keep confidential information that becomes known to them in the course of preparation or conduct of operational investigative measures, and not to provide false information to those bodies. For the disclosure of such information and submission of false information they shall bear responsibility established by the law of the Republic of Kazakhstan.

3. The bodies, carrying out operational investigative activity, can conclude agreements on cooperation with eligible adults regardless of their citizenship, nationality, sex, social, official and property status, education, membership of public associations, political and religious beliefs. Form of contract, terms and dates of validity shall be determined by departmental regulatory acts.

**Footnote. Article 13 as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 187-IV; dated 07.12.2009 No. 221-IV (the order of the entry into force see article 2).**

## **Article 14. Use of materials of operational investigative activities**

1. Materials obtained during the process of operational and investigative activity can be used for preparation and implementation of investigative actions and conducting operational and investigative activities on prevention, suppression of criminal offenses, as well as in the process of proving criminal cases, subject to inspection in accordance with provisions of criminal procedure legislation of the Republic of Kazakhstan, regulating collection, investigation and evaluation of evidences.

The materials of operational and investigative activity can be used for other tasks stipulated by Article 2 of this Law after their inspection in accordance with the procedure established by the legislation of the Republic of Kazakhstan, with the exception of the results obtained during intelligence activity for which the procedure of their use shall be established by departmental regulatory legal acts.

2. Materials obtained as a result of carrying out operational investigative measures, before their transformation into the form provided for in the criminal procedure legislation of the Republic of Kazakhstan, or in the absence of opportunities to enter them in criminal proceedings shall not constitute grounds for limiting rights, freedoms and legitimate interests of individuals and legal entities.

3. Information on the organization of operational investigative activities, about the specific operational investigative measures, sources and methods of obtaining of information constituting a state or other secret protected by the law, except for the cases stipulated by the legislation of the Republic of Kazakhstan, as well as information affecting private life, honor and dignity of a person and citizen shall not be subjected to disclosure.

4. For disclosure of information on operational investigative activity of the persons to whom such information known as a result of carrying out professional duties, shall be liable under the laws of the Republic of Kazakhstan.

**Footnote.** Article 14 is in the wording of the Law of the Republic of Kazakhstan dated 17.07.2009 No. 187-IV; as amended by the Law of the Republic of Kazakhstan dated 07.12.2009 No. 221-IV (the order of the entry into force see article 2); dated 27.05.2010 No. 279-IV (the order of the entry into force see article 2); dated 03.07.2014 № 227-V (shall be enforced from 01.01.2015); dated 28.12.2016 № 36-VI (shall be enforced upon expiry of two months after the day its first official publication).

### **Article 14-1. Information support and documenting of operational investigation activity**

1. To solve tasks provided for by this Law, the bodies that carry out operational investigative activities, can create and use operational records and information systems, as well as to proceed with a case of operational records.

2. The accumulation of information in the operational records and information systems, as well as the file a case of operational account shall be carried out in the presence of the bases

provided for by paragraph 1 of article 10 of this Law, for the purposes of collection and systematization of information, inspection and evaluation of the results of operational investigative activity, as well as taking at that base of relevant decisions by the authorities carrying out operational investigative activities.

3. The procedure of formation and use of operational records and information systems, as well as conducting the affairs of the operative account shall be determined by regulatory legal acts of the bodies that carry out operational investigative activities.

**Footnote. Section 3 is supplemented with the article 14-1 in accordance with the Law of the Republic of Kazakhstan dated 17.07.2009 No. 187-IV.**

#### **Article 15. Limits in operational investigative activity**

Upon exercising operational investigative activities shall be prohibited:

- to take actions that create a real threat to the life, health and property of citizens, unless absolutely necessary, and necessary defence;
- to take action in the interests of any political party, as well as public and religious associations;
- convince and to inciting citizens to commit offences;
- the use of violence, threats, blackmail or other illegal actions, limiting the rights, freedoms and legitimate interests of citizens and officials;
- to falsify operational investigative materials, as well as the use of unreliable or false information;
- to disclose information that affect the inviolability of private life, personal and family secrets, the honor and dignity of a person and citizen, and that became known during carrying out of operational investigative measures, without the consent of citizens, except for cases provided for by law.

**Footnote. Article 15 as amended by the Law of the Republic of Kazakhstan dated 17.12.2009 No. 221-IV (the order of the entry into force see article 2).**

#### **Article 16. Bases for termination of operational investigative measures**

Operational investigative measures shall be terminated:

- upon performing the tasks for that their conduct has been provided;
  - in case of establishment of facts, testifying to the objective impossibility of solving tasks ;
  - exposure of circumstances, excluding the involvement of the tested entity to liability on the grounds provided for by the legislation of the Republic of Kazakhstan;
- by resolution of a higher body, carrying out operational investigative activity, a prosecutor or a court decision in case of detecting violations of the law, the rights of person and citizen in the implementation of operational investigative activity.

Operational investigative measures shall be carried out, shall be suspended and terminated within the period provided for by the regulatory acts of the bodies that carry out operational investigative activities, consistent with the General Prosecutor of the Republic of Kazakhstan.

**Footnote. Article 16 as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 187-IV.**

**Section 4. Interaction of bodies, carrying out operational investigative activity Article 17. Interaction of bodies of the Republic of Kazakhstan, carrying out operational investigative activities**

Bodies of the Republic of Kazakhstan, carrying out operational investigative activities shall:

- solve their tasks independently and in cooperation among themselves, using the opportunities of the state, public and other organizations, and also assistance of citizens;
- provide for the mutual informing about the known facts of criminal acts related to the competence of these bodies, and render mutual assistance needed.

**Article 18. Interaction with bodies of other states**

1. Authorities of other states that have been given the right of implementation of operational investigative activities shall interact and conduct operational investigations on the territory of the Republic of Kazakhstan within the limits and procedure provided for by this Law and relevant treaties and agreements.

2. Authorities of the Republic of Kazakhstan, carrying out operational investigative activity, shall interact and conduct operational investigative measures on the territories of other states within the limits and procedure provided for by this Law as well as the legislation of those countries on the basis of relevant contracts and agreements.

**Article 19. Interaction of bodies, carrying out operational investigative activity with international law enforcement organizations**

Interaction of the bodies that carry out operational investigative activities with international law enforcement organizations shall be carried out in accordance with contracts (agreements) on legal assistance and within the norms provided for by this Law.

**Section 5. Financial and material-technical support of the operational investigative activity Article 20. Financial support of the operational investigative activity**

Financing of operational investigative activity shall be carried out at the expense of budget funds, allocated for the maintenance of the bodies that carry out operational investigative activities, both in national and in foreign currency.

Footnote. The words “by Cabinet of Ministers” are substituted with the words “by Government” in accordance with the Law of the Republic of Kazakhstan dated 15.07.1996 No. 31 "On amendments and additions to some legislative acts of the Republic of Kazakhstan ". As amended by the Law of the Republic of Kazakhstan dated 22.12.1998 No. 327 (shall be enforced from 01.01.1999); dated 20.12.2004 No. 13 (shall be enforced from 01.01.2005).

#### **Article 21. Material-technical support of the operational investigative activity**

Material-technical support of the operational investigative activity shall be carried out at the expense of budget funds.

Footnote. The words “by Cabinet of Ministers” are substituted with the words “by Government” in accordance with the Law of the Republic of Kazakhstan dated 15.07.1996 No. 31 "On amendments and additions to some legislative acts of the Republic of Kazakhstan ". Third and fourth paragraphs are excluded by the Law of the Republic of Kazakhstan dated 22.12.1998 No. 327 (shall be enforced from 01.01.1999). Is in the new wording of the Law of the Republic of Kazakhstan dated 20.12.2004 No. 13 (shall be enforced from 01.01.2005).

#### **Section 6. Social and legal protection of the subjects of operational investigative activity Article 22 . Social and legal protection of the employees of bodies, carrying out operational investigative activity**

1. Employees of bodies, carrying out operational investigative activity upon performance of official duties shall be representatives of the authorities and shall be under state protection. They shall have the guarantees of legal and social protection of employees of ministries and departments in the states to that they belong. Taking into account the specifics of the employees of the bodies that carry out operational investigative activities, can be granted additional privileges.

2. In their official activities employees of bodies that carry out operational investigative activities, shall be guided by requirements of law and are shall not be bound by the decisions of political parties and mass public movements pursuing political goals.

3. No one, except those expressly authorized by law, shall not be entitled to interfere with lawful deeds of employees and of the bodies that carry out operational investigative activities. Upon receiving orders or instructions, contradicting to the legislation, they shall be obliged to follow the law.

4. The heads of the bodies that carry out operational investigative activities shall be obliged to ensure personal safety, safety of property of its employees, their family members and close relatives.

5. In order to properly perform their official duties employees of the bodies that carry out operational investigative activities, shall be created conditions required for obtaining specific professional training, advanced training and medical care.

Footnote. Article 22 as amended by the Law of the Republic of Kazakhstan dated 07.12.2009 No. 221-IV (the order of the entry into force see article 2).

### **Article 23. Social and legal protection of confidential assistants**

Footnote. The title of the Article 23 as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 187-IV.

1. Confidential assistants shall be under state protection.
2. Citizens, willing to contribute to the bodies that carry out operational investigative activities, the state shall guarantee for ensuring their rights and obligations in accordance with this Law, other laws and regulatory acts of the Republic of Kazakhstan.
3. In the case of real threat of illegal encroachment on the life, health or property of citizens in connection with their assistance to bodies that carry out operational investigative activities, as well as their family members and close relatives, these bodies shall be obliged to take all necessary measures to prevent unlawful acts, identifying perpetrators and bringing them to justice, as well as on carrying out, if necessary, special measures for their protection in accordance with the laws of the Republic of Kazakhstan.
4. Information about the identity of confidential assistants shall be state secrets.
5. Confidential assistants shall be entitled to receive remuneration.
6. The period of cooperation of citizens under the contract on paid basis as the main occupation with the bodies that carry out operational investigative activities, shall be included in their total seniority. They shall be entitled to pension provision in case of loss of their families and dependants on retirement survivor's pension in accordance with the legislation and in accordance with the procedure provided for by the Government of the Republic of Kazakhstan.
7. In case of loss of confidential assistant in connection with his participation in the carrying out of operational investigative actions the family of the deceased and his dependants shall be paid one-time allowance:
  - in the amount of ten-years financial support of the deceased, collaborated on a paid basis ;
  - in the amount of 1,411-fold monthly calculation indicator established by the law on the republican budget and effective on January 1 of the corresponding financial year, with the cooperation of the deceased on a gratuitous basis.
8. Upon receiving by confidential assistant of injury or other harm to health, received in connection with his participation in the carrying out of operational investigative actions, he shall be paid a lump-sum benefit:
  - in the amount of five-year allowance for collaborating on a paid basis;
  - in the amount of 706-fold monthly calculation indicator established by the law on the republican budget and effective on January 1 of the corresponding financial year, for those cooperating on free of charge basis.



9. Compensation of damage caused by death, mutilation or other damage of health connected with participation in the carrying out of operational investigative measures shall be made from the funds of the bodies that carry out operational investigative activities, in accordance with the procedure provided for by the Government of the Republic of Kazakhstan.

**Footnote. Article 23 as amended by the Law of the Republic of Kazakhstan dated 15.07.1996 No. 31; dated 07.04.2009 No. 149-IV; dated 17.07.2009 No. 187-IV; dated 07.12.2009 No. 221-IV (the order of the entry into force see article 2); dated 26.12.2018 No. 203-VI (shall be enforced from 01.01.2019).**

## **Section 7. Control and supervision over operational investigative activities Article 24.**

### **Departmental control**

The heads of the bodies that carry out operational investigative activities, shall ensure control over compliance with the legality, organization, tactics, methods and means, as well as measures to ensure the secrecy and confidentiality of this activity.

Senior departmental authorities shall provide control over the operational investigative activities of their subordinate bodies.

**Footnote. Article 24 as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 187-IV.**

### **Article 25. Supervision over operational investigative activities**

1. Supervision over the observance of legality upon implementation of operational investigation activities shall carry out the General Prosecutor of the Republic of Kazakhstan and the subordinate prosecutors.

2. Upon execution of supervision over operational investigative activities a prosecutor shall:

1) obtain departmental regulations governing the organisation and tactics of investigative activities, operational records, materials, documents and other required data on the course of investigative activities, excluding the identity of confidential assistants and regular uninformed personnel;

1-1) issue an order for investigative measures to be implemented;

1-2) issue written instructions for investigative measures;

2) carry out inspection of legality of the implementation of special operational investigative measures, including the communications network;

2-1) issue a ruling on the legitimacy of a special investigative measure implemented without the prosecutor's authorisation;

3) terminate by his resolution operational investigative measures in case of detecting violations of the law, the rights of person and citizen upon implementation of operational investigative activity;

3-1) revoke the unlawful decisions of the officials in charge of investigative activities;

4) consider complaints and appeals on the actions and decisions of officials of the bodies that carry out operational investigative activities;

5) protest contradicting to the Constitution, laws and acts of the President of the Republic regulatory legal acts, regulating the organization and tactics of carrying out the operational investigative measures, issued by the bodies carrying out operational investigative activity;

6) initiate pre-trial investigation, disciplinary proceedings in relation to employees who committed unlawful actions in conducting operational and investigative activities;

7) decide other acts of public prosecutions on the revealed facts of violations in the course of supervision over the legality of the operational investigative activity;

8) through a motivated resolution exempt illegally detained persons or cancel the illegal decision on the detention of persons;

9) upon necessity demand from the heads of the bodies that carry out operational investigative activities, conduct inspections in subordinate bodies with the purpose of elimination infringements of law;

10) in the cases established by the law of the Republic of Kazakhstan, give sanction to carry out operational investigative actions.

3. The Prosecutor General within its competence, shall adopt regulatory legal acts on questions of application of norms of the legislation of the Republic of Kazakhstan on operational investigative activity, obligatory for execution by bodies, carrying out operational investigative activity.

4. In order to identify violations of the law by bodies that carry out operational investigative activities, a prosecutor shall be entitled to involve specialists of prosecutor's offices and other specialists with the use of special technical means.

**Footnote. Article 25 is in the wording of the Law of the Republic of Kazakhstan dated 09.08.2002 No. 346; as amended by the Law of the Republic of Kazakhstan dated 17.07.2009 No. 187-IV; dated 07.12.2009 No. 221-IV (the order of the entry into force see article 2); dated 04.07.2014 № 233-V (shall be enforced from 01.01.2015); No. 157-VII of 05.11.2022 ( shall be brought into force ten calendar days after the date of its first official publication).**

#### **Article 26. Interaction with the assets recovery authority**

Pursuant to the Law of the Republic of Kazakhstan “On the return of illegally acquired assets to the state”, the operational-search bodies are obliged to submit to the assets recovery authority the data they receive in the course of operational-search activities, including those constituting state secrets and other secrets protected by law, with the exception of:

1) data on the identity of confidential assistants and full-time unofficial employees;

2) data on the organization of operational-search activities, on specific operational-search measures, on sources and methods of obtaining information;

3) data relating to personal life, honor and dignity of the individual, if they do not contain information about the commission of actions prohibited by law.

**Footnote. Section 7 is supplemented by Article 26 pursuant to the Law of the Republic of Kazakhstan dated 12.07.2023 No. 23-VIII (shall be enforced ten calendar days after the date of its first official publication).**

*The President  
of the Republic of Kazakhstan*

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