

The law of the Republic of Kazakhstan

“On introduction of amendments and addenda to some legislative acts of the Republic of Kazakhstan on issues related to combatting trafficking in human beings”

Article 1. Incorporate amendments and addenda to the following legislative acts of the Republic of Kazakhstan:

1. To the Criminal Code of the Republic of Kazakhstan dated 16 July 1997 (Vedomosti Parlamenta Respubliki Kazakhstan, 1997, #15-16, article 211; 1998, № 16, article 219; № 17-18, article 225; year 1999, № 20, article 721; № 21, article 774; year 2000, № 6, article 141; year 2001, № 8, articles 53, 54; year 2002, № 4, articles 32, 33; № 10, articles 106; № 17, articles 155; № 23-24, articles 192; year 2003, № 15, article 137; № 18, article 142; year 2004, № 5, article 22; № 17, article 97; № 23, article 139; year 2005, № 13, article 53; № 14, article 58; № 21-22, article 87; year 2006, № 2, article 19; № 3, article 22; № 5-6, article 31; № 8, article 45; № 12, article 72; № 15, article 92; year 2007, № 1, article 2; № 4, article 33; № 5-6, article 40; № 9, article 67; № 10, article 69; № 17, article 140; year 2008, № 12, article 48; № 13-14, article 58; № 17-18, article 72; № 23, article 114; № 24, article 126; year 2009, № 6-7, article 32; № 13-14, article 63; № 15-16, articles 71, 73, 75; № 17, articles 82, 83; № 24, articles 121, 122, 125, 127, 128, 130; year 2010, № 1-2, article 5; № 7, articles 28, 32; № 11, article 59; № 15, article 71; № 20-21, article 119; № 22, article 130; № 24, article 149; year 2011, № 1, article 9; № 2, articles 19, 28; № 19, article 145; № 20, article 158; № 21, article 161; № 24, article 196; year 2012, № 1, article 5; № 2, article 13; № 3, article 26, 27; № 4, article 30; № 5, articles 35, 36; № 10, article 77; № 12, article 84; year 2013, № 1, article 2; № 4, article 21; Law of the Republic of Kazakhstan dated 21 May 2013 “On introducing amendments and addenda to some legislative acts of the Republic of Kazakhstan on personal data and their protection” published in Yegemen Kazakhstan and Kazakhstanskaya Pravda newspapers on 25 May 2013; Law of the Republic of Kazakhstan dated 13 June 2013 “On introducing amendments and addenda to some legislative acts of the Republic of Kazakhstan related to further decriminalization of offenses related to economic activities” published in Yegemen Kazakhstan and Kazakhstanskaya Pravda on 21 June 2013; Law of the Republic of Kazakhstan dated 21 June 2013 “On introducing amendments and addenda to some legislative acts of the Republic of Kazakhstan related to pension provision” published in Yegemen Kazakhstan and Kazakhstanskaya Pravda newspapers on 22 June 2013):

1) the index should be complemented with the heading of article 138-1 which shall read as follows: “Article 138-1. Violation of the labor legislation of the Republic of Kazakhstan in relation to minors”;

2) clause 2 of notes to article 125 shall be revised as follows:

«2. In the present article and articles 126, 128 and 133 of the present Code exploitation of a person is understood as follows:

1) use by the culprit of forced labor that is understood as any work or service exacted from a person by means of use of force or threat thereof and for performance of which this person has not offered their services voluntarily, with the exception of cases stipulated by the laws of the Republic of Kazakhstan;

2) exploitation by the culprit of prostitution of another person or other services performed by the latter, with the purpose of appropriation of received earnings, as well as coercion of a person to performing sexual services, without pursuit of material benefit;

3) coercion of a person to begging, in other words, to performing an anti-social act related to begging money and (or) other belongings / property from other persons;

4) other actions performed by the culprit when executing authority of an owner towards a person who, for reasons beyond their influence, cannot refuse to perform works and (or) services for the benefit of the culprit and (or other person);

3) article 128 shall be revised as follows:

Article 128. Trafficking in human beings

1. Trade or other transactions involving a person as well as their exploitation or recruitment, transportation, transfer, harboring, receipt as well as other actions performed with the aim of exploitation –

Shall be punished by imprisonment for a period from three to five years and confiscation of property.

2. The same actions performed:

a) by a group of people upon preliminary agreement;

b) repeatedly;

c) with the use of force harmful to life and health or threat thereof;

d) with the use of weapons or objects used as weapons;

e) in relation to a woman that the culprit knew to have been pregnant;

f) in relation to two or more people;

g) with the purpose of extraction of organs or tissues of the victim for transplantation or other use;

h) through deception or abuse of trust;

i) by a person in abuse of authority vested in them by their office;

j) through abuse of economic or other dependency of the victim;

k) in relation to a person that the culprit knew in advance to have been suffering from psychological disorder or to have been in a helpless state;

l) with confiscation, seizure or liquidation of documents identifying the victim - are punished by imprisonment from five to seven years and confiscation of property.

3. Actions stipulated in first or second clauses of this article, committed with the purpose of transporting people to outside of the Republic of Kazakhstan, into the Republic of Kazakhstan or through the territory of the Republic of Kazakhstan from one foreign state to another with the purpose of committing such actions shall be punished by imprisonment for a period from seven to ten years and confiscation of property.

4. Actions stipulated in clauses one, two or three of the present article, given that they:

a) have been committed by an organized group;

b) have, through negligence, led to the death of the victim or other grave consequences,

shall be punished by imprisonment for a period from ten to fifteen years and confiscation of property.

Notes.

1. The present article and article 133 of the present Code shall understand trade as illegal compensated transaction where one party (the vendor) transfers a person to another party (the buyer) for a certain fee.

2. Other transactions – gift (transfer of a person to another person free of charge), exchange (exchange of a person for another), lease (transfer of a person for temporary ownership and exploitation for a fee), transfer of a person as a guarantee of fulfillment of a liability in a transaction made between parties, use of a person as a method of payment, transfer of a person with the purpose of obtaining any non-material benefits and other transactions.

3. The consent of the victim to a planned exploitation is not taken into account if any of the means of control and influence indicated in clause 2 of the present article were used.
4. Crimes stipulated in articles 113, sub-clause b) of clause three of article 125, sub-clause b) of clause three of article 126, articles 128, 132-1, 133, 270 and 271 of the present Code, shall be recognized as crimes involving trafficking in human beings;
5. Articles 132-1 and 133 shall be reviewed as follows:

“Article 132-1. Engagement of a minor in prostitution”

 1. Engagement of a minor in prostitution – shall be punished by imprisonment for a period from three to five years and confiscation of property.
 2. Engagement of a minor in prostitution through force or threat thereof, abuse of a position of dependency, blackmail, destruction or damage of property or deception- shall be punished by imprisonment for a period from five to seven years and confiscation of property.
 3. Actions stipulated in clauses one or two of the present article, committed by a group of people upon preliminary agreement or committed repeatedly – shall be punished by imprisonment for a period from six to ten years and confiscation of property.
 4. The same actions as foreseen in clauses 1, 2 or three of the present article, committed by:
 - a) an organized group;
 - b) a parent, teacher or any other person responsible for rearing the minor by the law,
 shall be punished by imprisonment for a period from seven to twelve years and confiscation of property.

Article 133. Trafficking in minors

1. Trade or other transactions involving a minor as well as their exploitation or recruitment, smuggling, transfer, harboring, receipt as well as other actions committed with the purpose of exploitation –
Shall be punished by imprisonment for a period from five to seven years and confiscation of property.
2. The same actions committed:
 - a) by a group of people upon preliminary agreement;
 - b) repeatedly;
 - c) with the use of force harmful to life and health or the threat thereof;
 - d) with the use of weapons or objects used as weapons;
 - e) in relation to two or more people;
 - f) with the purpose of extraction of organs or tissues of the victim for transplantation or other use;
 - g) by use of deception or abuse of trust;
 - h) by a person in abuse of their office;
 - i) with the purpose of engaging a minor in crimes or other anti-social actions;
 - j) through abuse of material or other dependency of the victim;
 - k) in relation to a minor that the culprit knew beforehand as being pregnant;
 - l) in relation to a minor that the culprit knew beforehand as suffering from psychological disorders or being in a helpless state;
 - m) through seizure, concealment or destruction of documents certifying the victim’s identity –
shall be punished by imprisonment for a period from seven to ten years and confiscation of property.

3. Actions stipulated in clauses one or two of the present article, committed with the purpose of smuggling minors to outside of the territory of the Republic of Kazakhstan, smuggling them into the Republic of Kazakhstan or transiting them through the territory of the Republic of Kazakhstan from one foreign state to another, as well as smuggling a minor to outside of the territory of the Republic of Kazakhstan, smuggling them into the Republic of Kazakhstan or transiting them through the territory of the Republic of Kazakhstan from one foreign state to another with the purpose of committing such actions –
Shall be punished by imprisonment for a period from ten to twelve years and confiscation of property.
4. When actions stipulated in clauses 1,2 and 3 of the present article have:
 - a) Been committed by an organized group;
 - b) Led, through negligence, to the death of the victim or to any other serious consequences –
They shall be punished by imprisonment for a period from 12 to 15 years and confiscation of property.
5. Add article 138-1 with the following content:

“Article 138-1. Violation of labor legislation of the Republic of Kazakhstan in relation to minors

 1. Violation by an employer or an official of the labor legislation of the Republic of Kazakhstan in what concerns the use of the labor of minors which has led to substantial detriment to their rights and lawful interests-
Is punished by a fine in the amount of three hundred up to seven hundred monthly indexes or correctional works for a period of up to two years or imprisonment for the same period of time and withdrawal of the right to occupy certain official positions or engage in certain activities for a period of up to three years.
 2. The same actions committed:
 - a) By a group of people upon preliminary agreement;
 - b) Repeatedly;
 - c) In relation to two or more people;
 - d) Through deception or abuse of trust;
 - e) In relation to a minor that the culprit knew beforehand to be suffering from a psychological disorder or be in a helpless state –
Shall be punished by imprisonment for a period from two to five years and withdrawal of right to hold certain official positions or engage in certain activities for a period of up to three years”.
6. Articles 270 and 271 shall be reviewed as follows:

“engagement in prostitution through force or threat thereof, abuse of dependent position, blackmail, destruction or damage to property or through deception-
Shall be punished by imprisonment for a period from two to five years and confiscation of property.

 3. The same action committed by a group of people upon preliminary agreement or repeatedly-
shall be punished by imprisonment for a period of three up to six years and confiscation of property.
 4. The same action committed by an organized group –
Shall be punished by imprisonment for a period from five to seven years and confiscation of property.

Article 271. Organization or maintenance of brothels for engagement in prostitution and procuration

1. Organization or maintenance of brothels for engagement in prostitution as well as procuration with a mercenary purpose –
Shall be punished by imprisonment for a period of up to five years and confiscation of property.
2. The same actions committed:
 - a) By a group of people upon preliminary agreement;
 - b) Repeatedly;
 - c) With the purpose of involving a minor in prostitution –
Shall be punished by imprisonment for a period from five to seven years and confiscation of property.
3. Actions stipulated in clauses 1 and 2 of the present article, committed by an organized group-
Shall be punished by imprisonment for a period from five to ten years and confiscation of property.

2. Incorporate amendments to the Criminal Procedural Code of the Republic of Kazakhstan dated 13 December 1997 (Vedomosti Parlamenta Respubliki Kazakhstan, 1997, № 23, article 335; 1998, № 23, article 416; 2000, № 3-4, article 66; № 6, article 141; 2001, № 8, article 53; № 15-16, article 239; № 17-18, article 245; № 21-22, article 281; 2002, № 4, article 32, 33; № 17, article 155; № 23-24, article 192; 2003, № 18, article 142; 2004, № 5, article 22; № 23, article 139; № 24, article 153, 154, 156; 2005, № 13, article 53; № 21-22, article 87; № 24, article 123; 2006, № 2, article 19; № 5-6, article 31; № 12, article 72; 2007, № 1, article 2; № 5-6, article 40; № 10, article 69; № 13, article 99; 2008, № 12, article 48; № 15-16, articles 62, 63; № 23, article 114; 2009, № 6-7, article 32; № 15-16, articles 71, 73; № 17, article 81, 83; № 23, articles 113, 115; № 24, articles 121, 122, 125, 127, 128, 130; 2010, № 1-2, article 4; № 11, article 59; № 17-18, article 111; № 20-21, article 119; № 22, article 130; № 24, article 149; 2011, № 1, article 9; № 2, articles 19, 28; № 19, article 145; № 20, article 158; № 24, article 196; 2012, № 1, article 5; № 3, article 26; № 4, article 32; № 5, article 35; № 6, article 44; № 10, article 77; № 14, article 93; 2013, № 2, articles 10, 13; Law of the Republic of Kazakhstan dated 21 May 2013 “On introducing amendments and addenda to some legislative acts of the Republic of Kazakhstan on personal data and their protection” published in Yegemen Kazakhstan and Kazakhstanskaya Pravda newspapers on 25 May 2013):

- 1) in clause 2 of article 192:
numbers “132-1” replace with “132-1 (clauses 2, 3 and 4); add numbers “138-1” after number “138”;

words “271 (second clause)” replace with words “270 (second and third clauses), 271 (second and third clauses”;

- 2) in clause 1 of article 237:
add words “132-1 (clause one)” after words “131 (clause 1)”;
add words “271 (clause one)” after words “270 (clause 1);
- 3) in clause two of article 285:
add words “132-1 (clause one)” after words “132 (clause one)”;
- 4) clause 2) of article 290-1 should be complemented with “138-1” after numbers “138”.

3. Incorporate amendments to the Administrative Offenses Code of the Republic of Kazakhstan dated 30 January 2001 (Vedomosti Parlamenta Respubliki Kazakhstan, 2001, № 5-6, article 24; № 17-18, article 241; № 21-22, article 281; 2002, № 4, article 33; № 17, article 155; 2003, № 1-2, article 3; № 4, article 25; № 5, article 30; № 11, articles 56, 64, 68; № 14, article 109; № 15, articles 122, 139; № 18, article 142; № 21-22, article 160; № 23, article 171; 2004, № 6, article 42; № 10, article 55; № 15, article 86; № 17, article 97; № 23, articles 139, 140; № 24, article 153; 2005, № 5, article 5; № 7-8, article 19; № 9, article 26; № 13, article 53; № 14, article 58; № 17-18, article 72; № 21-22, articles 86, 87; № 23, article 104; 2006, № 1, article 5; № 2, articles 19, 20; № 3, article 22; № 5-6, article 31; № 8, article 45; № 10, article 52; № 11, article 55; № 12, articles 72, 77; № 13, articles 85, 86; № 15, articles 92, 95; № 16, articles 98, 102; № 23, article 141; 2007, № 1, article 4; № 2, articles 16, 18; № 3, articles 20, 23; № 4, articles 28, 33; № 5-6, article 40; № 9, article 67; № 10, article 69; № 12, article 88; № 13, article 99; № 15, article 106; № 16, article 131; № 17, articles 136, 139, 140; № 18, articles 143, 144; № 19, articles 146, 147; № 20, article 152; № 24, article 180; 2008, № 6-7, article 27; № 12, articles 48, 51; № 13-14, articles 54, 57, 58; № 15-16, article 62; № 20, article 88; № 21, article 97; № 23, article 114; № 24, articles 126, 128, 129; 2009, № 2-3, articles 7, 21; № 9-10, articles 47, 48; № 13-14, articles 62, 63; № 15-16, articles 70, 72, 73, 74, 75, 76; № 17, articles 79, 80, 82; № 18, articles 84, 86; № 19, article 88; № 23, articles 97, 115, 117; № 24, articles 121, 122, 125, 129, 130, 133, 134; 2010, № 1-2, articles 1, 4, 5; № 5, article 23; № 7, articles 28, 32; № 8, article 41; № 9, article 44; № 11, article 58; № 13, article 67; № 15, article 71; № 17-18, articles 112, 114; № 20-21, article 119; № 22, articles 128, 130; № 24, articles 146, 149; 2011, № 1, articles 2, 3, 7, 9; № 2, articles 19, 25, 26, 28; № 3, article 32; № 6, article 50; № 8, article 64; № 11, article 102; № 12, article 111; № 13, articles 115, 116; № 14, article 117; № 16, articles 128, 129; № 17, article 136; № 19, article 145; № 21, article 161; № 24, article 196; 2012, № 1, article 5; № 2, articles 9, 11, 13, 14, 16; № 3, articles 21, 22, 25, 26, 27; № 4, article 32; № 5, articles 35, 36; № 8, article 64; № 10, article 77; № 12, articles 84, 85; № 13, article 91; № 14, articles 92, 93, 94; № 15, article 97; № 20, article 121; № 23-24, article 125; 2013, № 1, articles 2, 3; № 2, articles 10, 11, 13; № 4, article 21; Law of the Republic of Kazakhstan dated 21 May 2013 “On introducing amendments and addenda to some legislative acts of the Republic of Kazakhstan on personal data and their protection” published in Yegemen Kazakhstan and Kazakhstanskaya Pravda newspapers on 25 May 2013; Law of the Republic of Kazakhstan dated 13 June 2013 "On introducing amendments and addenda to some legislative acts of the Republic of Kazakhstan on development of local self-governance” published in Yegemen Kazakhstan and Kazakhstanskaya Pravda newspapers on 14 June 2013; Law of the Republic of Kazakhstan dated 13 June 2013 “On introducing amendments and addenda to some legislative acts of the Republic of Kazakhstan on issues of delineation of authority among state bodies” published in Yegemen Kazakhstan and Kazakhstanskaya Pradva newspapers on 14 June 2013; Law of the Republic of Kazakhstan dated 13 June 2013 “On introducing amendments and addenda to some legislative acts of the Republic of Kazakhstan on the issue of further decriminalization of economic offenses” published in Yegemen Kazakhstan and Kazakhstanskaya Pravda newspapers on 21 June 2013; Law of the Republic of Kazakhstan dated 21 June 2013 “On introducing amendments and addenda to some legislative acts of the Republic of Kazakhstan on issues of pension provision” published in Yegemen Kazakhstan and Kazakhstanskaya Pradva newspapers on 22 June 2013);

- 1) the table of contents should be complemented with headings of articles 328-2 and 341-1 which shall read as follows:

“Article 328-2. Violation by public health entities of their liability on informing relevant authorities”;

“Article 341-1. Intentional provision of premises for prostitution purposes or procuration”;

- 2) article 87 should be complemented with clauses 2-1 and 2-2 which shall read as follows:

“2-1. Action (inaction) stipulated in clause 1 of the present article committed in relation to minors – shall lead to a fine imposed in the amount of fifty up to seventy monthly indexes upon officials, individual entrepreneurs, small or medium business legal entities or not-for-profit organizations; and a fine of one hundred to one hundred and fifty monthly indexes and suspension of license for large business entities –,

2-2. Action (inaction) stipulated by clause 2-1 of the present article, committed repeatedly within a period of one year after imposition of an administrative sanction -

Shall lead to a fine of seventy to one hundred monthly indexes for officials, individual entrepreneurs, small and medium business legal entities or not-for-profit organizations; and a fine of one hundred and fifty up to two hundred monthly indexes and suspension of license – for large business legal entities.

- 3) add articles 328-2 and 341-1 which shall read as follows:

«Article 328-2. Violation by public health entities of their liability of informing relevant authorities

1. Violation by public health entities of their liability on informing relevant public health authorities about cases of infectious diseases, poisoning, psychological and behavioral disorders (diseases) which represent hazard to the surrounding community; informing emergency authorities about threat of onset and (or) onset of medical and sanitary consequences of emergencies; informing interior departments about individuals referring for treatment of fresh injuries, wounds, illegal abortions, diseases representing hazard to the surrounding community –

Shall lead to a fine in the amount of up to five monthly indexes for individuals and a fine of five to ten monthly indexes for officials.

2. The same action (inaction) committed repeatedly within a year after the imposition of an administrative penalty –

Shall lead to a fine in the amount of five to ten monthly indexes and withdrawal of certificate for individuals, a fine of ten to twenty monthly indexes and suspension of license – for officials, and a fine of twenty to fifty monthly indexes and suspension of license – for legal entities.

“Article 341-1. Intentional provision of premises for prostitution or procuration purposes

1. Intentional provision of premises for prostitution or procuration purposes –

Shall lead to a fine of one hundred monthly indexes for individuals, a fine of two hundred monthly indexes – for officials; a fine of three hundred monthly indexes – for individual entrepreneurs and small and medium business legal entities, and a fine of one thousand monthly indexes and suspension of activity or certain types of activities for a period of up to six months – for large business legal entities.

2. The same action committed repeatedly within a year after the imposition of an administrative penalty –

Shall lead to a fine of two hundred monthly indexes for individuals, a fine of three hundred monthly indexes – for officials, a fine of four hundred monthly indexes – for individual entrepreneurs and small and medium business legal entities, a fine of two

thousand monthly indexes, ban of activity or certain types of activities for a period of up to three years and confiscation of revenues received as a result of committing the administrative offense – for large business legal entities”;

4) clause one of article 541:

Shall be complemented with “87 (clauses 2-1 and 2-2)” after numbers “86-1”;

After numbers “328”, shall be complemented with “328-2 (clause 2)”;

Shall be complemented with “341-1” after “340”;

5) In article 543:

Clause one, after numbers “328-1” shall be complemented with “328-2 (clause one)”;

Sub-clause 2) of clause two shall be complemented with “328-2 (clause one) after numbers “311”;

6) clause one of article 580 shall be complemented with sub-clause 11) which shall have the following content:

“11) a person brought to administrative responsibility is acknowledged as a victim in the criminal case on a crime involving trafficking in persons, in the order prescribed by the law”;

7) paragraph of sub-clause 1) of clause one of article 636:

“328-2 (clause two)” shall be added after “324-2”;

“341-1” shall be added after words “341 (clause 2)”;

8) clause one of article 677 shall be reviewed as follows:

“1. A person in relation to whom the judge and / or authority (official) authorized to review administrative offenses cases, rules to dismiss the case for reasons stipulated in sub-clauses 1) -7) and 11) of clause one of article 580 of the present Code, is acknowledged as not guilty and cannot be subjected to any restriction of rights and freedoms guaranteed by the Constitution and laws of the Republic of Kazakhstan”;

9) sub-clause 2) of clause 2 of article 678 shall be reviewed as follows:

“2) persons in relation to whom proceedings in a case should not have been started and, where started, should have been dismissed for reasons stipulated in sub-clauses 1) -7) and 11) of clause one of article 580 of the present Code, if the proceedings in a case were started despite circumstances which exclude proceedings in an administrative offense case, or where proceedings were not dismissed at the moment of their revelation”.

4. Incorporate amendments to the Labor Code of the Republic of Kazakhstan dated 15 May 2007 (Vedomosti Parlamenta Respubliki Kazakhstan, 2007, № 9, article 65; № 19, article 147; № 20, article 152; № 24, article. 178; 2008, № 21, article 97; № 23, article 114; 2009, № 8, article 44; № 9-10, article 50; № 17, article 82; № 18, article 84; № 24, articles 122, 134; 2010, № 5, article 23; № 10, article 48; № 24, articles 146, 148; 2011, № 1, articles 2, 3; № 11, article 102; № 16, article 128; 2012, № 3, article 26; № 4, article 32; № 5, article 41; № 6, article 45; № 13, article 91; № 14, article 92; № 15, article 97; № 21-22, article 123; 2013, № 2, article 13; № 3, article 15; Law of the Republic of Kazakhstan dated 21 May 2013 “On introducing amendments and addenda to some legislative acts of the Republic of Kazakhstan on issues of personal data and their protection” published in Yegemen Kazakhstan and Kazakhstanskaya Pravda newspapers on 25 May 2013; Law of the Republic of Kazakhstan dated 13 June 2013 “On introducing amendments and addenda to some legislative acts of the Republic of Kazakhstan on issues of delineation of authority among state bodies” published in Yegemen Kazakhstan and Kazakhstanskaya Pradva newspapers on 14 June 2013; Law of the Republic of Kazakhstan dated 21 June 2013 “On introducing amendments and addenda to some legislative acts of the Republic of Kazakhstan on issues of pension provision” published in Yegemen Kazakhstan and Kazakhstanskaya Pradva newspapers on 22 June 2013):

Clause 3 of article 26 shall be reviewed as follows:

“3. Individuals who have or have had criminal conviction records for crimes in relation to minors such as murder, intentional infliction of harm to health, sexual assault and crimes involving trafficking in human beings, shall not be employable in such areas as education, recreation and health promotion, physical education and sport, medical services provision, provision of social cultural and art services where minors are involved”.

Article 2. The present Law enters into force ten calendar days after its first official publication.

President of the Republic of Kazakhstan

N.NAZARBAYEV

Astana, Akorda, 4 July 2013

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