

## On Refugees

### *Non-official translation*

The Law of the Republic of Kazakhstan dated 4 December, 2009 No.216-IV

#### Unofficial translation

This Law shall determine the legal status of persons, seeking refuge and refugees in the territory of the Republic of Kazakhstan.

### **Article 1. The basic concepts, used in this Law**

The following concepts shall be used in this Law:

- 1) refugee - a foreigner, which in view of a well-founded fear of being persecuted on ground of race, nationality, religion, citizenship, affiliation to particular social group or political opinions, is outside the country of his (her) citizenship and is unable to enjoy protection of his (her) country, or does not wish to enjoy such protection, in consequence of such fears, or a person without citizenship residing outside his (her) country of permanent place of residence or citizenship, who are unable or unwilling to return to it in consequence of these fears;
- 2) refugee certificate - a document, certifying personality and confirming the refugee's status;
- 3) travel document - a document, issued to the person, to whom the refugee's status to travel outside the territory of the Republic of Kazakhstan is awarded;
- 4) secure third country - the country, in which the person, seeking a refuge was temporary resided until the arrival to the Republic of Kazakhstan and where he (she) may be granted or was granted access to the effective mechanisms of protection and determination of refugee status;
- 5) refugee - granting protection to the persons, seeking refuge by award of status of refugee in the territory of the Republic of Kazakhstan;
- 6) a person, seeking refuge, - a foreigner or person without citizenship, indicated willingness to apply for refuge in the Republic of Kazakhstan until adoption of conclusive decision by the authorized body on its application on award of status of refugee;
- 7) a certificate of person, seeking refuge - a document, issued by the authorized body, confirming registration of application on award of status of refugee;
- 8) an authorized body - the state body, carrying out management in the scope of regulation of relations on issues of refugees;
- 9) country of consignment - the country of citizenship of foreigner or permanent place of residence without citizenship.

**Footnote. Article 1 as amended by the Law of the Republic of Kazakhstan dated 29.01.2013 No. 74-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **Article 2. The scope of effect of this Law**

1. This Law shall regulate the social relations in the field of legal status of persons, seeking refuge and refugees in the territory of the Republic of Kazakhstan.

2. The effect of this Law shall not be distributed to the relations, linked with granting of political refuge in the territory of the Republic of Kazakhstan, as well as to the persons, left the country of their citizenship or the country of permanent place of residence in view of economic reasons.

### **Article 3. The legislation of the Republic of Kazakhstan on refugees**

1. The legislation of the Republic of Kazakhstan on refugees shall be based on the Constitution of the Republic of Kazakhstan and consist of this Law and other regulatory legal acts of the Republic of Kazakhstan.

2. If by the international treaty, ratified by the Republic of Kazakhstan, made other rules than those that contained in this Law, the rules of the international treaty shall be applied.

### **Article 4. Basic principles of the state policy on issues of refugees**

The basic principles of the state policy on issues of refugees shall be:

1) ensuring persons, seeking refuge and refugees with the right to refuge in accordance with the procedure, established by this Law;

2) inadmissibility of discrimination on grounds of social origin, race, nationality, citizenship, religion and political opinions upon carrying out procedures on award of status of refugee;

3) confidentiality compliance of information on personal life of persons, seeking refuge, and refugees;

4) assistance to reunification of separated families, seeking refuge, and refugees;

5) protection of rights of refugee children, being in the Republic of Kazakhstan in accordance with the Legislation of the Republic of Kazakhstan on rights of the child;

6) non-admission of removal of persons, seeking refuge and refugees upon availability of grounds, provided by second part of paragraph 2 of Article 18 of this Law.

### **Article 5. The competence of the Government of the Republic of Kazakhstan**

The Government of the Republic of Kazakhstan shall:

1) develop the principal directions of the state policy on issues of refugees;

2) adopt the regulatory legal acts on issues of refugees within its competence;

3) determine procedure of award, prolongation, deprivation and termination of the refugee's status;

4) determine the clauses of temporary location upon mass influx of persons, seeking refuge and accept decisions on these issues;

4-1) confirm the sample of refugee certificate and requirements to their protection;

5) exercise other powers, provided by the Constitution, the Laws of the Republic of Kazakhstan and acts of the President of the Republic of Kazakhstan.

**Footnote. Article 5 as amended by the Law of the Republic of Kazakhstan dated 29.01.2013 No. 74-V (shall be enforced upon expiry of ten calendar days after its first official publication).**

### **Article 6. The competence of the authorized body**

An authorized body shall:

- 1) realize the state policy on issues of refugees;
- 2) develop, confirm the regulatory legal acts on issues of refugees within its competence ;
  - 2-1) carry out coordination and methodological guideline of local executive bodies on issues of refugees;
  - 3) effect international cooperation on issues of refugees;
  - 4) is excluded by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V (shall be enforced upon expiry of ten calendar days after its first official publication);
  - 5) is excluded by the Law of the Republic of Kazakhstan dated 13.01.2014 No. 159-V (shall be enforced upon expiry of ten calendar days after its first official publication);
  - 6) carry out the state control of observance of the legislation of the Republic of Kazakhstan on refugees;
  - 7) confirm the procedure of registration and consideration of application on award of status of refugee, samples of the certificate of person, seeking refuge;
  - 8) assist the person, recognized as a refugee, in acquisition of information on relatives , residing in the country of origin within its competence;
  - 9) issue a certificate of person, seeking refuge;
  - 10) perform procedures of award, prolongation, deprivation and termination of the refugee 's status;
  - 11) confirm the sample of travel document, carry out issuance of certificate of refugee and travel document;
  - 12) form and monthly direct the lists of persons, seeking refuge and refugees to the bodies of national security;
  - 13) develop and confirm provision of the committee on performing of procedures of award, prolongation, deprivation and termination of the refugee's status, as well as create the specified commission;
    - 13-1) enforce the rights of persons, seeking refuge and refugees;
    - 13-2) carry out registration of persons, seeking refuge and refugees;
    - 13-3) restrict or prohibit access of persons, seeking refuge and refugees to the separate sites of locality or the objects, situated in the frontier zone (belt) during emergency situations of natural and technogenic nature, frontier search of frontier violators, rebuffing of military invasion or mass influx emergency of citizens of neighbouring state to the territories of the Republic of Kazakhstan on presentation of bodies of national security;
    - 13-4) carry out forced exclusion of persons, seeking refuge and refugees in execution of court decisions, entered into legal force;
  - 14) exercise other functions, provided by this Law, other Laws, the acts of the President and the Government of the Republic of Kazakhstan.

Footnote. Article 6 as amended by the Laws of the Republic of Kazakhstan dated 29.12.2010 No. 372-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.01.2013 No. 74-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.06.2013 No. 102-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 03.07.2013 No. 124-V ( shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.01.2014 No. 159-V (shall be enforced upon expiry of ten calendar days after its first official publication).

## **Article 7. The competence of other state bodies**

1. An authorized body, carrying out the foreign policy activity shall:

- 1) represent the Republic of Kazakhstan in relations with foreign states and international organizations on issues of refugees;

2) is excluded by the Law of the Republic of Kazakhstan dated 03.07.2013 No. 124-V (shall be enforced upon expiry of ten calendar days after its first official publication);

3) represent suggestions and recommendations on issues of relations of the Republic of Kazakhstan with the foreign states and international organizations in the matter of refugees to the President, the Parliament and the Government of the Republic of Kazakhstan in the procedure, established by the legislation;

4) ensure participation of the Republic of Kazakhstan in the activity of international organizations, conferences, meetings, forums on issues of refugees and international actions on protection of rights of refugees;

5) assist the person, recognized as a refugee, in acquisition of information on relatives, residing in the country of origin within its competence;

6) exercise other functions, provided by this Law, other Laws, the acts of the President and the Government of the Republic of Kazakhstan.

2. Is excluded by the Law of the Republic of Kazakhstan dated 29.12.2010 No. 372-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

2-1. An authorized body in the scope of civil protection shall:

1) represent the suggestions on issuance of material valuables from the state material reserve to the Government of the Republic of Kazakhstan according to the procedure, established by the legislation of the Republic of Kazakhstan for rendering of assistance to refugees;

2) render assistance to the local executive bodies in deployment of tent camps, preparation of stationary camps for reception of refugees;

3) ensure fire safety in tent and stationary camps for reception of refugees;

4) exercise other powers, provided by this Law, other Laws of the Republic of Kazakhstan, the acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

3. Other state bodies of the Republic of Kazakhstan shall carry out regulation in the scope of relations on issues of refugees within the competence, established by this Law, other Laws, the acts of the President and the Government of the Republic of Kazakhstan.

Footnote. Article 7 as amended by the Laws of the Republic of Kazakhstan dated 29.12.2010 No. 372-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 03.07.2013 No. 124-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 11.04.2014 No. 189-V (shall be enforced upon expiry of ten calendar days after its first official publication).

## **Article 8. Rights and obligations of persons, seeking refuge**

1. Persons, seeking refuge shall have a right to:

1) obtainment of free services of translator and information acquisition on procedure of award of the refugee's status, on their rights and obligations;

2) petition for award of the refugee's status through consular institutions of the Republic of Kazakhstan;

3) revocation of application on award of the refugee's status;

4) appeal of a decision of the authorized body on refusal in award of the refugee's status ;

5) residence in the Republic of Kazakhstan for the term up to the termination of decision-making process on application of award of the refugee's status, including periods for appeal;

6) voluntary return to the country of origin or move to the any third country;

7) medical service in accordance with the legislation of the Republic of Kazakhstan in the field of health care service;

8) freedom of labour or entrepreneurial activity in accordance with the legislation of the Republic of Kazakhstan;

9) judicial protection of property and private non-property wealth and rights.

2. Persons, seeking refuge shall be obliged to:

- 1) give reliable information, necessary for adoption decisions on award of the refugee's status;
- 2) attend an obligatory medical examination in terms and procedure, established by the authorized body in the field of health care service;
- 3) comply with the legislation of the Republic of Kazakhstan;
- 4) inform the authorized body on intendments to get out outside the territory of the Republic of Kazakhstan;
- 5) remove from the register and register in the authorized body upon relocation in the territory of the Republic of Kazakhstan and register respectively and register during five business days from the date of arrival to the new place of residence.
- 6) Persons, seeking refuge shall have other rights and freedoms, as well as shall incur all obligations, established by the Constitution, the Laws and international treaties of the Republic of Kazakhstan for foreigners and persons without citizenship.

**Footnote. Article 8 as amended by the Law of the Republic of Kazakhstan dated 29.12.2010 No. 372-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Article 9. The rights and obligations of refugees**

1. Refugees shall have a right to:

- 1) refuge;
- 2) request information from relevant authorized bodies on relatives, residing in the country of origin;
- 3) appeal of a decision of the authorized body on refusal of prolongation, deprivation or termination of the refugee's status;
- 4) voluntary return to the country of origin or move to the any third country;
- 5) medical service in accordance with the legislation of the Republic of Kazakhstan in the field of health care service;
- 6) freedom of labour or entrepreneurial activity in accordance with the legislation of the Republic of Kazakhstan;
- 7) judicial protection of property and private non-property weal and rights.
- 8) taking property, brought by himself (herself), as well as acquired by him (her) in the territory of the Republic of Kazakhstan, to another country, in which the right of entry for location is granted to him (her);
- 9) obtaining of certificate of refugee and travel document.

2. Refugees shall be obliged to:

- 1) comply the legislation of the Republic of Kazakhstan;
- 2) inform the authorized body on intendments to get out outside the territory of the Republic of Kazakhstan;
- 3) remove from the register and register in the authorized body upon relocation in the territory of the Republic of Kazakhstan and register respectively and register during five business days from the date of arrival to the new place of residence.
- 4) Persons, having the refugee's status, shall have a rights and freedoms, as well as incur all obligations, established by the Constitution, the Laws and international treaties of the Republic of Kazakhstan for foreigners and persons without citizenship.

**Footnote. Article 9 as amended by the Law of the Republic of Kazakhstan dated 29.12.2010 No. 372-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

## **Article 10. Serving order and registration of application on award of the refugee's status**

1. Person, seeking refuge, may apply personally or through the authorized representative to the authorized body with written application on award of the status of refuge on place of his (her) temporary residence, during five calendar days on arrival in the territory of the Republic of Kazakhstan or from the date when he (she) being in the territory of the Republic of Kazakhstan, learned of the occurrence of the circumstances of being persecuted for reasons of race, nationality, religion, citizenship, affiliation to particular social group or political opinions.

2. If person, seeking refuge, is not arrived in the territory of the Republic of Kazakhstan, he (she) may apply personally or through the authorized representative to the diplomatic representation or consular institution of the Republic of Kazakhstan.

Diplomatic representation or consular institution of the Republic of Kazakhstan shall transfer application on award of the refugee's status through the diplomatic channels to the authorized body under consideration.

3. A person shall enter a written application to the point of migration control, and in the case of absence of such point - to the subdivision of Frontier service of National Security Committee of the Republic of Kazakhstan.

In the absence of point of passage across the State border of the Republic of Kazakhstan, in the case of forced illegal crossing of the State border of the Republic of Kazakhstan a person shall apply to the authorized body within 24 hours.

4. In the cases, when the persons, detained for illegal entry or residence in the territory of the Republic of Kazakhstan, express intendment to apply with application on award of the refugee's status, the competent bodies shall inform the authorized body during one day from the date of detention.

An authorized body shall clarify the circumstances of their arrival on the territory of the Republic of Kazakhstan and register an application on award of the refugee's status during two calendar days.

5. Information on the person's family members arrived with him (her), not attained the age of eighteen, shall be entered in application of one of the parents on the basis of document on birth, and upon absence of parents - to the application of their legal representatives.

6. On the day of registration of the application on award of the refugee's status in the Republic of Kazakhstan, the certificate of the person, seeking refuge, shall be issued to the person, seeking refuge and his (her) registration shall be carried out for the term up to adoption of decision on his (her) application.

7. Information on family members, not attained the age of eighteen shall be entered in certificate of the person, seeking refuge, of one of the parents or legal representatives.

The certificate of the person, seeking refuge shall be issued to the person, seeking refuge, not attained the age of eighteen and arrived in the territory of the Republic of Kazakhstan.

Footnote. Article 10 as amended by the Laws of the Republic of Kazakhstan dated 29.12.2010 No. 372-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 27.04.2012 No. 15-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 16.01.2013 No. 71-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.06.2013 No. 102-V (shall be enforced upon expiry of ten calendar days after its first official publication).

## **Article 11. Award of the refugee's status**

1. Decision on award of the refugee's status shall be adopted by the authorized body during three months from the date of registration of application on award of the refugee's status.

In the cases, when an additional verification shall be required for adoption of decision, the pronouncement of conclusive decision shall be reserved for the term no more than one year.

2. Recognition of persons, being the members of one family, shall be carried out by refugees in relation of each member of family, attained the age of eighteen, in recognition of circumstances, provided by subparagraph 1) of Article 1 of this Law.

In case of absence of circumstances, provided in subparagraph 1) of Article 1 of this Law, in relation of one of the members of family, attained the age of eighteen, this family member shall be also recognized as a refugee in order of ensuring of family reunification.

Requirements of this Article, as well as Articles 10, 12, 13 and 14 of this Law shall be applied upon submission of application to the spouse (spouse) of person, won refugee status or applied to for refugee in the Republic of Kazakhstan for the purpose of family reunification.

Spouse (spouse) and minor children of person, arrived in the territory of the Republic of Kazakhstan later than persons, won refugee status in the Republic of Kazakhstan or persons, seeking refuge, upon submission of application shall introduce the evidences and (or) the documents, conforming their family relationship in an authorized body.

Upon violation of unity of family in consequence of divorce or death of refugee, the refugee's status of members of his (her) family shall be maintained for the term of decision on award to him (her) the refugee's status.

3. Recognition of the person, not attained the age of eighteen by refugee and arrived in the territory of the Republic of Kazakhstan without parents or legal representatives, shall be carried out in recognition of the interests of this person in accordance with this Law after acquisition of information on parents or legal representatives.

4. In case if a person, recognized as a refugee, born a child, the legal position of the child shall be determined in accordance with the legislation of the Republic of Kazakhstan.

5. The refugee's status shall be awarded for the term of one year. The certificate of refugee shall be granted to the person, to whom the refugee's status is awarded, by the authorized body during five business days from the date of adoption of decision.

Upon maintenance of previous circumstances, serving as a ground of granting to him (her) the refugee's status in the country of origin of refugee, the term of the refugee's status shall be extended by the authorized body for the term of one year and for each subsequent year on the ground of the application of a refugee, submitted by him (her) one month to go before the end of the specified term.

6. In case if a person, seeking refuge, denied in award of the refugee's status, an authorized body shall hand in or direct the copy of decision with specification of reasons of rejection and explanation of order of appeal of adopted decision to the person, seeking refugee during five business days from the date of adoption of decision on refusal.

## **Article 12. Reasons for rejection to the person, seeking refuge in award of the refugee's status**

Reasons for rejection to the person, seeking refuge in award of the refugee's status shall be the following circumstances:

1) absence well-founded fears, that a person may be a victim of persecution on ground of race, nationality, religion, citizenship, affiliation to particular social group or political opinions;

2) if a person refused to report or report knowingly false information on himself (herself) and on the circumstances of arrival on the territory of the Republic of Kazakhstan, and also represent the false documents;

3) availability of the citizenship at a person of third state, the protection of which he (she) may use;

4) if a person immediately arrived from the secure territory of third country;

5) if in relation of this person have compelling reasons to suppose that he (she) participate or participated in the activity of terrorist, extremist, as well as prohibited religious organizations, operating in the country of nationality or in the country, from where he (she) came;

6) if in relation of this person have compelling reasons to suppose that he (she) committed an offence against the world, military offense or crime against humanity in definition, given by this action in the international acts, concluded in order of adoption of measures in relation of such crimes;

7) if in relation of this person have compelling reasons to suppose that he (she) committed an enormous offense of non-political nature outside the Republic of Kazakhstan before arrival to its territory;

8) if in relation of this person have compelling reasons to suppose that he (she) guilty in doing, contradicted to the objectives and principles of United Nations Organization and international organizations, the members of which the Kazakhstan is;

9) if this person enjoy protection or assistance of bodies or institutions of United Nations Organization, except of Government of High commissioner of United Nations Organization in the matter of refugees.

### **Article 13. Deprivation of person of the refugee's status**

1. A person shall be deprived the refugee's status, if he (she):

1) reported knowingly false information or represented the false documents, constituted as a ground for award of the refugee's status;

2) sustained a conviction for the offence against the world, military offense or crime against humanity in definition, given by this action in the international acts, concluded in order of adoption of measures in relation of such crimes;

3) sustained a conviction for an enormous offense of non-political nature, committed outside the Republic of Kazakhstan before arrival to its territory;

4) sustained a conviction for doing, contradicted to the objectives and principles of United Nations Organization and international organizations, the members of which the Kazakhstan is;

5) sustained a conviction for participation in the activity of terrorist, extremist, as well as prohibited religious organizations.

2. An authorized body shall hand in or direct the copy of decision with specification of reasons of this decision and explanation of order of appeal of adopted decision to the person during five business days from the date of adoption of decision on deprivation of the refugee's status.

### **Article 14. Termination of the refugee's status**

1. The refugee's status shall be terminated, if a person:

1) acquired citizenship of the Republic of Kazakhstan or other state and enjoy protection of the state, the citizen of which he (she) became;

2) may not refuse any more from the enjoyment of protection of the country of his (her) citizenship, as the circumstances on the grounds of which he (she) was recognized as a refugee are changed;

3) forfeited citizenship of his (her) previous state, newly acquired it on a voluntary basis;

4) newly use the protection of country on a voluntary basis, the citizen of which he (she) was;

5) indicate willingness to return in a country of origin, as the grounds of granting to him(her) the refugee's status stopped to carry out;

6) voluntary returned to the country, which he (she) left or from which left because of danger of persecution;



- 7) left the country of the Republic of Kazakhstan for the permanent place of residence.
2. The refugee's status shall be also terminated upon the expire of his (her) term upon absence of prolongation.

#### **Article 15. The order of appeal of decision of the authorized body**

Decision of the authorized body on refusal in award, prolongation of the refugee's status or deprivation of the refugee's status may be appealed in the superior authorized body and (or) in a court according to the procedure, established by the Laws of the Republic of Kazakhstan.

#### **Article 16. Protection of children, willing to win refugee status and refugee children**

1. Protection shall be provided as for children, willing to win refugee status and refugee children as arrived without parents or other legal representatives, as in those cases, when the parents and other family members may not be founded, as for other children in the Republic of Kazakhstan, left without parental care in accordance with the legislation of the Republic of Kazakhstan on rights of the child.

2. The refugee certificate shall be issued to the refugee children, being in the territory of the Republic of Kazakhstan without parents or legal representatives.

#### **Article 17. Acquisition of citizenship of the Republic of Kazakhstan**

Refugees shall acquire citizenship of the Republic of Kazakhstan in accordance with the legislation of the Republic of Kazakhstan on citizenship.

#### **Article 18. Return and deportation**

1. Persons, seeking refuge and refugees shall voluntary leave the territory of the Republic of Kazakhstan with the members of their family during one month from the date of adoption of decision of the authorized body or the court on refusal in granting, prolongation or deprivation of the refugee's status, as well as on termination of the refugee's status.

2. In case of refusal of persons, seeking refuge and refugees voluntary leave the territory of the Republic of Kazakhstan, compulsory deportation of persons, seeking refuge and refugees shall be executed by the authorized body in accordance with the legislation of the Republic of Kazakhstan and in execution of court decisions, entered into legal force.

Return and deportation of persons, seeking refuge and refugees to the frontiers of the country, wherein their life and freedom are endanger on grounds of race, nationality, religion, citizenship, affiliation to particular social group or political opinions shall be prohibited.

**Footnote. Article 18 as amended by the Law of the Republic of Kazakhstan dated 29.12.2010 No. 372-IV (shall be enforced upon expiry of ten calendar days after its first official publication).**

#### **Article 19. Financial assurance**

Expenditure financing, linked with the refugees in the Republic of Kazakhstan, shall be carried out at the expense of the budget funds and other sources, not contradicted to the legislation of the Republic of Kazakhstan.

**Article 20. Responsibility for violation of the legislation of the Republic of Kazakhstan on refugees**

Violation of the legislation of the Republic of Kazakhstan on refugees shall entail responsibility, established by the Laws of the Republic of Kazakhstan.

Refugees and persons, seeking refuge, committed a crime, administrative or other offenses in the territory of the Republic of Kazakhstan shall bear responsibility on the common grounds with the citizens of the Republic of Kazakhstan, except of the cases, established by the ratified international treaties of the Republic of Kazakhstan.

**Article 21. The procedure of introduction into effect of this Law**

This Law shall be enforced from 1 January, 2010.

*The President  
of the Republic of Kazakhstan*

*N. Nazarbayev*