

## On Jurors

### *Non-official translation*

The Law of the Republic of Kazakhstan dated 16 January 2006 No. 121

### Unofficial translation

This Law regulates the social relations related to the participation of jurors in criminal proceedings, defines the legal status, guarantees of independence, legal, economic and organisational bases of maintenance of jurors' activity.

#### **Article 1. The basic definitions used in this Law**

The following definitions shall be used in this Law:

- 1) a juror - a citizen of the Republic of Kazakhstan convened to participate in the consideration of a criminal case by a court according to the procedure provided by law, and who took an oath;
- 2) a candidate for jurors - a citizen of the Republic of Kazakhstan, included in the list of candidates for jurors for further participation in the process of jurors selection in accordance with the Criminal Procedure Code of the Republic of Kazakhstan;
- 3) a preliminary list of candidates for jurors - a preliminary primary or preliminary reserve list of candidates for jurors that forms the basis for carrying out the procedure for random selection of citizens;
- 4) a primary list of candidates for jurors - a list of candidates for jurors from a district (a city of regional significance) that forms the basis when compiling a unified list of candidates for jurors;
- 5) a unified list of candidates for jurors - a main list of candidates for jurors from a region (the city of republican significance, the capital) that contains a number of citizens defined by the chairman of the relevant regional and equivalent court;
- 6) a reserve list of candidates for jurors - a list of candidates for jurors from the number of citizens domiciling in the regional centre (the city of republican significance, the capital) that intended to engage candidates for jurors to the procedure for selection of jurors after the use of resources of a unified list of candidates for jurors;
- 7) an additional list of candidates for jurors - a list of candidates for jurors from a region (the city of republican significance, the capital) compiled in the absence of resources of a unified and reserve lists of candidates for jurors;
- 8) random selection - selection of citizens from a preliminary list of candidates for jurors with the use of technologies that allows to ensure the randomness of the selection;
- 9) a number of citizens required to ensure proper operation of the regional and equivalent court - an anticipated number of citizens defined on the basis of the average annual number of cases to be considered by courts with participation of jurors.

#### **Article 2. The legislation of the Republic of Kazakhstan on jurors**

1. The legislation of the Republic of Kazakhstan on jurors is based on the Constitution of the Republic of Kazakhstan and consists of the Constitutional Law of the Republic of Kazakhstan On the Judicial System and Status of Judges of the Republic of Kazakhstan, the Criminal Procedure Code, this Law and other regulatory legal acts of the Republic of Kazakhstan .

2. If an international treaty ratified by the Republic of Kazakhstan establishes rules other than those contained in this Law, the rules of the international treaty shall apply.

### **Article 3. The status of a juror**

1. A legal status of jurors shall be determined by this Law.

2. A juror shall be empowered to participate in the administration of justice in the criminal case according to the procedure provided for by the Criminal Procedure Code of the Republic of Kazakhstan.

3. Jurors of the Republic of Kazakhstan shall have equal status.

### **Article 4. Lists of candidates for jurors**

1. In order to ensure the participation of the citizens of the Republic of Kazakhstan in the process of selection of jurors by local executive bodies the primary, unified and reserve lists of candidates for jurors shall be compiled annually by 1 December of the year preceding the year when candidates for jurors are to be selected.

2. Local executive bodies shall be entitled to request from government bodies, organisations and citizens the information necessary to verify compliance of citizens with the requirements to the candidates for jurors specified in Article 10 of this Law. The responses to requests of local executive bodies shall be sent to their address no later than three business days from the day of receipt.

3. The lists of candidates for jurors shall be compiled in alphabetical order. A family name, name, patronymic, year of birth (at the age of twenty five also the day and month) and a place of residence of a candidate for jurors shall be specified in the lists.

### **Article 5. Number of citizens to be included in the lists of candidates for jurors**

1. Number of citizens to be included in the primary, unified and reserve lists of candidates for jurors shall be based on a number of candidates for jurors annually presented by the chairman of a relevant regional and equivalent court.

2. Submission of the chairman of a relevant regional and equivalent court shall be sent to a local executive body of a region (the city of republican significance, the capital) not later than 1 September of the year preceding the year when the jurors are to be selected for participation in the court proceedings according to the lists of candidates for jurors.

3. A local executive body of a region (the city of republican significance, the capital) annually, not later than three days from the day of receipt of the submission of the chairman of a regional or equivalent court, shall determine a number of candidates for jurors from each district (a city of regional significance) and shall notify the local executive bodies of a district (a city of regional significance) on a number of candidates for jurors.

### **Article 6. The procedure for compiling primary lists of candidates for jurors**

1. In order to compile a primary list of candidates for jurors a local executive body of the district (a city of regional significance):

1) within one month from the date of receipt of notification on a number of candidates for jurors from the district, shall compile a preliminary primary list of candidates for jurors on the basis of lists of electors of a relevant district (a city of regional significance) from the citizens domiciling in administrative-territorial unit by excluding from lists of electors those persons that do not meet the requirements to candidates for jurors established by Article 10 of this Law;

2) within seven days from the end of compiling a preliminary primary list of candidates for jurors shall provide citizens with opportunity to acquaint themselves with a preliminary primary list of candidates for jurors in the premises of a local executive body, shall consider applications about errors and discrepancies in the list and decide issues on introduction of corresponding amendments in it;

3) shall conduct a random selection of citizens from preliminary primary list of candidates for jurors in a number specified by a local executive body of a corresponding region (the city of republican significance, the capital) separately for each district (a city of regional significance);

4) following the results of a random selection, shall compile a primary list of candidates for jurors, affix a seal of a local executive body and send it to a local executive body of a region (the city of republican significance, the capital).

2. Actions of a local executive body of a district (a city of regional significance) undertaken in accordance with subparagraph 2) of paragraph 1 of this Article, as well as the actions (omissions) of a local executive body violating the rights of citizens to participate in the selection procedure for participation in criminal proceedings as a juror may be appealed in a court within seven days from the date of expiration of a period when citizens shall acquaint themselves with a preliminary primary list of candidates for jurors in accordance with the legislation of the Republic of Kazakhstan.

3. The procedure provided for in subparagraph 3) of paragraph 1 of this Article shall be conducted upon expiry of a period to appeal the decisions of a local executive body of a district (a city of regional significance).

4. The total duration of the procedures provided for in this Article shall not exceed two months from a date of receipt of the notification on a number of candidates for jurors from a district.

#### **Article 7. The procedure for compiling a reserve list of candidates for jurors**

1. In order to compile a reserve list of candidates for jurors a local executive body of a region (the city of republican significance, the capital):

1) within one month from the date of receipt of the submission of the chairman of a regional or equivalent court about the number of candidates for jurors from number of citizens domiciling in a regional centre (the city of republican significance, the capital), shall compile a preliminary reserve list of candidates for jurors on the basis of lists of electors from the citizens domiciling in the regional centre or other permanent location of a court of the corresponding region (the city of republican significance, the capital) by excluding from such lists of electors those persons that do not meet the requirements for candidates for jurors established by Article 10 of this Law;

2) within seven days from the end of making a preliminary reserve list of candidates for jurors shall provide citizens with opportunity to acquaint themselves with a preliminary reserve list of candidates for jurors in the premises of a local executive body, shall consider applications about errors and discrepancies in the list and decide issues on introduction of corresponding amendments in it;

3) shall conduct a random selection of citizens from a preliminary reserve list of candidates for jurors in a number equal to one fourth of a number of citizens included in a

unified list of candidates for jurors;

4) following the results of a random selection, shall compile a reserve list of candidates for jurors, affix a seal of a local executive body of a region (the city of republican significance, the capital).

2. Actions of a local executive body of a region (the city of republican significance, the capital) undertaken in accordance with subparagraph 2) of paragraph 1 of this Article, as well as actions (omissions) of a local executive body of a region (the city of republican significance, the capital) violating rights of citizens to participate in selection procedures for participation in criminal proceedings as jurors may be appealed in a court within seven days from a date of expiration of period when citizens shall acquaint themselves with a preliminary reserve list of candidates for jurors in accordance with the legislation of the Republic of Kazakhstan.

3. The procedure provided for in subparagraph 3) of paragraph 1 of this Article shall be conducted upon expiration of a period to appeal decisions of a local executive body of a region (the city of republican significance, the capital).

4. The total duration of the procedures provided for in this Article shall not exceed two months from a date of receipt of the submission of the chairman of a regional or equivalent court about number of candidates for jurors from a region (the city of republican significance, the capital).

#### **Article 8. The procedure for compiling a unified list of candidates for jurors**

1. A local executive body of a region (the city of republican significance, the capital):

1) shall compile a unified list of candidates for jurors based on the primary lists of candidates for jurors;

2) shall send the unified and reserve lists of candidates for jurors to respective regional and equivalent courts.

2. The procedure provided for by paragraph 1 of this Article shall be conducted by a local executive body of a region (the city of republican significance, the capital) no later than within three months from a date of receipt of submission of the chairman of regional or equivalent court about a number of candidates for jurors from a region (the city of republican significance, the capital).

#### **Article 9. An additional list of candidates for jurors**

1. In exceptional cases, when resources of unified and reserve lists of candidates for jurors have been exhausted, the chairman of regional and equivalent court shall have a right, subject to agreement with the Chairman of the Supreme Court of the Republic of Kazakhstan, to send to a local executive body of a region (the city of republican significance, the capital) a submission on the required additional number of citizens and on a need to compile an additional list of candidates for jurors in this respect.

2. A local executive body of a region (the city of republican significance, the capital) within ten days from a date of receipt of submission of the chairman of regional or equivalent court shall compile additional lists of candidates for jurors based on the required number of citizens in accordance with requirements of subparagraph 3) of paragraph 1 of Article 7 of this Law, and send them to respective regional and equivalent courts.

#### **Article 10. Requirements to candidates for jurors**

1. The following persons shall not be included in lists of candidates for jurors:
  - 1) who has not reached the age of twenty- five years by time of the compilation of jurors lists;
  - 2) having outstanding conviction or conviction that is not expunged;
  - 3) recognized by court as incapable or partially capable;
  - 4) judges, prosecutors, investigators, advocates, civil servants and military personnel, as well as employees of law enforcement bodies;
  - 5) registered in narcological dispensary or psychoneurologic dispensary.
2. Any restrictions on inclusion of citizens in lists of candidates for jurors on grounds of origin, social, official and property status, sex, race, nationality, language, religion, beliefs, place of residence or any other circumstances shall not be allowed.
3. The following persons shall be excluded from lists of candidates for jurors according to their written application request:
  - 1) a person who do not speak language of a proceeding in a criminal case;
  - 2) a person who are not able due to his physical or mental disabilities to serve as juror ;
  - 3) persons over the age of sixty five years;
  - 4) clergy.

#### **Article 11. Rights and obligations of citizens**

1. Citizens of the Republic of Kazakhstan who meet corresponding requirements to candidates for jurors shall be ensured to participate in criminal proceedings according to the procedure provided for by the Criminal Procedure Code of the Republic of Kazakhstan and this law.
2. Citizens shall have a right to acquaint themselves with lists of candidates for jurors according to the procedure provided for by this Law.
3. Citizens shall provide local executive bodies, at their request, with information necessary to compile lists of candidates for jurors.
4. Citizens shall incur liability established by the law of the Republic of Kazakhstan for failure to provide information required for compilation of lists of candidates for jurors, as well as for providing false information.
5. Citizens who have received notice regarding time and place of court session commencement, shall appear in a court to participate in the procedure for jurors selection. Citizen's absence without valid excuse shall entail liability under the law of the Republic of Kazakhstan.

#### **Article 12. Appeals against decisions of local executive bodies on non-inclusion, illegal inclusion or exclusion from a list of candidates for jurors**

1. Citizens shall have a right to apply to local executive bodies with applications on illegal inclusion or non-inclusion of specific persons in preliminary primary or preliminary reserve lists of candidates for jurors or on their exclusion from these lists, as well as on inaccuracies made in data about candidates for jurors according to the procedure provided for by this Law.
2. Local executive bodies within five days shall consider received applications and make decisions that can be appealed in a court according to the procedure provided for by the legislation of the Republic of Kazakhstan.
3. Local executive bodies shall regularly examine and, if necessary, amend the preliminary lists of candidates for jurors by excluding from lists those persons who do not meet requirements of Article 10 of this Law.

4. When court reveals circumstances requiring exclusion of a person from a list of candidates for jurors, a court shall notify a local executive body of a region (the city of republican significance, the capital).

#### **Article 13. Rights, obligations of a juror and actions restrictions related to consideration of a case**

1. A juror shall be entitled to:

- 1) participate in a study of evidence examined in a court in order to be able to independently under his intimate conviction to evaluate circumstances of a case and to give answers to questions that will be put before a jury;
- 2) ask questions of participants to proceeding through a chair;
- 3) participate in examination of material evidences, documents, in procedure of viewing area and facilities, in all other actions of judicial examination;
- 4) apply to a chair for interpretation of the legislation provisions, as well as a content of documents read during court session and regarding other incomprehensible to him matters related to a case;
- 5) make written notes during a court session.

2. A juror shall:

- 1) keep order in a court session and obey lawful instructions of a chair;
- 2) appear in time specified by a court for serving as a juror, as well as for continuation of a court trial if court session suspension has been announced or the hearing of a case has been postponed;
- 3) notify a chair in advance regarding the reasons for default in appearance in case of impossibility to appear in a court.

3. A juror shall not be entitled:

- 1) to disappear from a courtroom during hearing of a case;
- 2) to communicate with persons who are not members of a court without permission of a chair during hearing of a case;
- 3) to collect information during a proceeding outside a court session;
- 4) to disclose information about circumstances that became known to him in connection with his participation in a closed court session, as well as to violate a secrecy of deliberations room.

4. Failure to comply with obligations of a juror, as well as failure to comply with restrictions provided for in this Article shall entail liability under the law of the Republic of Kazakhstan, as well as a possibility of removal by a chair of a juror from further participation in consideration of a case.

#### **Article 14. Juror's oath**

1. Person selected according to the procedure provided for by the Criminal Procedure Code of the Republic of Kazakhstan for participation as a juror in criminal proceeding shall take an oath as follows:

“Upon commencing obligations of a juror, I solemnly swear to perform my obligations honestly and impartially, to take into account all evidence, arguments, circumstances of a case examined by a court, to decide a case based on my intimate conviction and conscience as befits a free citizen and an honest person”.

2. A juror confirms his oath by pronouncing the phrase “I swear”.

**Article 15. The procedure and deadlines for performance of a juror's obligations by a citizen**

1. A clerk of the court shall call in a court a required number of candidates for jurors to participate in proceeding in accordance with instructions of a presiding judge of a court who deals with a criminal case with participation of jury.

2. Citizens shall be summoned for a performance of obligations of jurors no more than once per calendar year for duration of a criminal proceeding.

3. Persons summoned to court, but not selected for a jury, may be engaged to participate as jurors in another court session.

**Article 16. Remuneration of a juror. Payment for the expenses of candidates for jurors and jurors. Guarantees for jurors in labour relations**

1. The authorised state body carrying out material, technical and other support of activities of regional and equivalent court by the end of a particular case consideration or if a trial is delayed monthly shall pay to a juror from budget funds a remuneration in the amount of half a salary of a judge of regional and equivalent court, but not less than average wage of a juror at his main place of work in proportion to a period (number of working days) of presence in a court.

2. Travel expenses shall be reimbursed to a candidate for jurors (a juror) according to procedure and in amounts established by the legislation of the Republic of Kazakhstan in relation to government agencies workers financed out of the republican budget funds.

3. A period of performance of a juror's obligations in a court shall be taken into account when calculating labour experience.

4. When performing the obligations of a juror he shall be retained his main place of work . A dismissal of a juror or his transfer to a lower paid job during a performance of his obligations in a court upon initiative of an employer shall not be allowed.

**Article 17. Guarantees of a juror's independence**

1. The guarantees of independence of judges established by laws shall apply to a juror during a period of performance of his obligation in a court.

2. An independence of a juror when performing his obligations in a court shall be ensured by:

1) a procedure for administration of justice provided for by law;

2) a prohibition under threat of liability against anyone's interference with activity of a jury in relation to participation in administration of justice.

3. A juror, members of his family and their property shall be protected by the state. A body conducting a criminal proceeding shall take necessary measures to ensure a safety of a juror, his family members, safekeeping of their property, if a juror performing his obligations in a court files a corresponding application, as well as in cases when other evidences of threats to safety of these persons or a safekeeping of their property have been found.

**Article 18. Liability of persons impeding a juror when performing his obligations**

Persons who impede a juror to perform obligations shall incur liability provided for by the laws of the Republic of Kazakhstan.

**Article 19. The order of the entry into force of this Law**

This Law shall enter into force from 1 January 2007.

*The President  
of the Republic of Kazakhstan*