

Criminal Code of the Republic of Kazakhstan No. 167-1 dated 16 July 1997

(Excerpts)

Chapter 13. CORRUPTION AND OTHER CRIMES AGAINST THE INTERESTS OF THE PUBLIC SERVICE AND PUBLIC ADMINISTRATION

Article 307. Misuse of Official Powers

1. Use by a person empowered to exercise public functions, or by a person equated to such person, of their official powers against the interests of the office with a view to gaining benefits and advantages for themselves or other persons and entities, or for causing harm to other persons or entities, where this caused material breach of the rights and legitimate interests of citizens or entities, or the interests of the society or of the state, -

shall be punished by a fine in the amount from one hundred to two hundred monthly calculation indices or in the amount of wages or other income of a convict for a period from one to two months or by deprivation of the right to hold certain positions or engage in certain types of activity for a period up to three years, or by detention under arrest for a period up to four months, or deprivation of freedom for a period up to two years.

2. The same act committed by an official, -

shall be punished by a fine in the amount from three hundred to five hundred monthly calculation indices or in the amount of wages or other income of a convict sentenced for a period from three to five months or deprivation of the right to hold certain positions or engage in certain types of activities for a period up to five years, or by deprivation of freedom for a period up to four years.

3. The same act that has been committed by a person holding a senior public office, -

shall be punished by a fine in the amount from five hundred to eight hundred monthly calculation indices or in the amount of wages or other income of a convict for a period from five to eight months or by deprivation of freedom for a period up to six years, with or without deprivation of the right to hold certain positions or engage in certain types of activities for a period up to five year.

4. Acts as is mentioned in the **first, second or third sections** of this Article, where such acts have caused grave consequences, -

shall be punished by deprivation of freedom for a period up to eight years with deprivation of the right to hold certain positions or engage in certain types of activities for a period up to seven years.

Notes.

1. Officials, members of the Parliament and of Maslikhats, judges and all public servants in accordance with the **legislation** of the Republic of Kazakhstan concerning public service shall belong to persons empowered to exercise public functions.

2. The following shall be equated to persons empowered to exercise public functions:

1) persons elected to bodies of local government;

- 2) citizens who have been duly registered as Presidential contenders, candidates to members of the Parliament of the Republic of Kazakhstan and members of maslikhats as well as members of the elected bodies of local government;
 - 3) employees who permanently or temporarily work at the bodies of local government, and who are paid from the state budget funds of the Republic of Kazakhstan;
 - 4) persons who exercise managerial functions in the state-owned entities and entities in the charter capital of which the state shareholding is not less than thirty-five percent.
3. Persons who exercise functions of a public agent or those that perform organisational or administrative and economic functions in the state bodies, bodies of local government, as well as in the Armed Forces of the Republic of Kazakhstan, other troops and military formations of the Republic of Kazakhstan, whether permanently, temporarily or in accordance with a special authorization, shall be recognised as officials.
4. Persons who hold positions established by the Constitution of the Republic of Kazakhstan, constitutional laws and other laws of the Republic of Kazakhstan, enabling them to exercise directly the functions of the state and powers of state bodies, as well as persons who hold political offices of public servants pursuant to the legislation of the Republic of Kazakhstan concerning public service, shall be understood as persons holding senior public office.

Article 308. Exceeding Power or Official Authority

1. Exceeding power or official authority, or commission by a person empowered to exercise public functions, or by those equated to such person, of acts which obviously go beyond the scope of his rights and authorities, and which have caused material breach of rights and legitimate interests of citizens or entities, or the protected interests of the society or the state, -

shall be punished by a fine from two hundred up to five hundred monthly calculation indices, or in the amount of wages or other income of a convict for a period from two to five months, or by deprivation of the right to hold certain positions or to engage in certain types of activity for a period up to three years, or by detention under arrest for a period from four to six months, or by deprivation of freedom for a period up to three years.

2. Same acts committed by an official, -

shall be punished by a fine in the amount from three hundred up to seven monthly calculation indices, or in the amount of wages or other income of a convict for a period from three to seven months, or by deprivation of the right to hold certain positions or to engage in certain types of activity for a period up to three years, or by deprivation of freedom for a period up to five years.

3. The same act that has been committed by a person holding a senior public office, -

shall be punished by a fine in the amount from five hundred up to one thousand monthly calculation indices or in the amount of wages or other income of a convict for a period from five to ten months or by deprivation of freedom for a period up to eight years, with or without deprivation of the right to hold certain positions or engage in certain activities for a period up to five years.

4. Acts as is mentioned in the first, second or third sections of this Article, where such act have caused grave consequences or were committed:

- a) with violence or threat thereof;
- b) with the use of arms or special means;

c) with a view to gaining benefits or advantages for themselves or other persons or entities, or for the purpose of causing harm to other persons or entities, -

shall be punished by deprivation of freedom for a period up to ten years with deprivation of the right to hold certain positions or engage in certain types of activities for a period up to seven years.

Article 309. Appropriation of Powers of an Official

Illegal appropriation by a public servant, who is not an official, of the powers of an official, and the commission of acts that have caused material breach of the rights and legitimate interests of citizens or entities, -

shall be punished by a fine in the amount from fifty up to one hundred monthly calculation indices, or in the amount of wages or other income of a convict for a period up to one month, or by engagement in public works for a period from one hundred twenty up to one hundred eighty hours, or by correctional labour for a period up to two years, or by detention under arrest for a period up to three months.

Article 310. Illegal Participation in Entrepreneurial Activity

1. Incorporation by a person empowered to exercise public functions, or by a person equated to such person, of an entity that carries out **entrepreneurial activity**, or participation in the management of such an entity, either personally or through a proxy, in breach of the prohibition established by law, where these acts are associated with granting to such an entity of privileges and advantages, or with patronage in any other form, -

shall be punished by deprivation of the right to hold certain positions or to engage in certain types of activity for a period up to five years with a fine in the amount from one hundred up to two hundred monthly calculation indices, or in the amount of wages or other income of a convict for a period from one to two months, or by engagement in public works for a period from one hundred and eighty up to two hundred and forty hours, or by detention under arrest for a period from three to six months, or by deprivation of freedom for a period up to one year.

2. The same act that has been committed by an official, -

shall be punished by deprivation of the right to hold certain positions or engage in certain activities for a period up to ten years with a fine in the amount from three hundred up to five hundred monthly calculation indices or in the amount of wages or other income of a convict for a period from three to five months, or deprivation of freedom for a period up to two years.

3. Commission by officials of acts that involved a transfer the licensing authority to non-governmental entities, including **public associations**, -

shall be punished by a fine in the amount from one hundred up to two hundred monthly calculation indices or deprivation of the right to hold certain positions or engage in certain activities for a period up to three years.

Article 311. Receipt of a Bribe

1. Receipt by a person empowered to exercise public functions, or by a person equated to such person, either personally or through an intermediary of a bribe in the form of money, securities, other property, the right to property, or valuable benefits for the agreement to perform (or omit to

perform) certain actions in favour of the briber or his/her principals, if such actions (omission to act) are within the competence of a given person empowered to exercise public functions, or a person equated to such person, or if he/she, by virtue of his/her official position, can make for such actions (omission to act), as well as for general protectorate or connivance in office, -

shall be punished by a fine in the amount from seven hundred up to two thousand monthly calculation indices, or in the amount of wages or other income of a convict for a period from seven months up to one year, or by restriction of freedom for a period up to five years, or by imprisonment for the same period, with deprivation of the right to hold certain positions or to engage in certain types of activity for a period up to five years with or without confiscation of property.

2. The same act that has been committed by an official, as well as receipt of a bribe for doing illegal actions (omission to act), -

shall be punished by imprisonment for a period from three to seven years with deprivation of the right to hold certain positions or to engage in certain types of activity for the period up to seven years with or without confiscation of property.

3. Acts as is mentioned in the **first or second sections** of this Article, which are committed by a person holding a senior public office, -

shall be punished by imprisonment for a period from five to ten years with deprivation of the right to hold certain positions or to engage in certain types of activity for the period up to seven years with or without confiscation of property.

4. Acts as is mentioned in the **first, second, or third sections** of this Article, if such acts were committed:

- a) by way of extortion;
- b) **by a group of persons upon a preliminary collusion or by an organised group**;
- c) in a large amount;
- d) repeatedly, -

shall be punished by imprisonment for a period from seven to twelve years with confiscation of property.

Notes.

1. A bribe in a large amount shall be understood as a bribe by money, or securities, other valuable property or benefits, the value of which exceeds five hundred monthly calculation indices.

2. Receipt by a person empowered to exercise public functions or by a person equated to such person, for the first time, of a gift in the form of property, rights to property, or other material benefits, in the absence of a preliminary agreement, for lawful actions (omission to act) that had been performed earlier, if the value of such a gift does not exceed two monthly calculation indices, shall not be recognised as a crime due to its insignificance, and it shall be punished by imposing disciplinary sanctions.

*Refer to the issues arising in **court practice** in connection with enforcement of this Article, as well as **Resolution** No. 9, which have a statutory force and effect, issued by the Plenary Session of the Supreme Court of the Republic of Kazakhstan dated 22 December 1995 "On Court Enforcement Practice of the Legislation on Liability for Bribery", **Statutory Resolution** No. 18 issued by the*

Supreme Court of the Republic of Kazakhstan dated 13 December 2001 "On Court Practice Relating to Criminal Cases Involving Offences of Corruption.

Article 312. Giving a Bribe

1. Giving a bribe to a person empowered to exercise public functions, or to a person equated to such person, either personally or through an intermediary, -

shall be punished by a fine in the amount from two hundred up to five hundred monthly calculation indices, or in the amount of wages or other income of a convict for a period from two to five months, or by correctional labour for a period up to two years, or by restriction of freedom for a period up to three years, or by detention under arrest for a period from three to six months, or by imprisonment for a period up to three years.

2. Giving a bribe to an official, and equally giving a bribe for the commission of knowingly illegal actions (omission to act), or such actions committed repeatedly, or by an organised **group**, -

shall be punished by a fine in the amount from seven hundred up to two thousand monthly calculation indices, or in the amount of wages or other income of a convict for a period from seven months up to one year, or by restriction of freedom for a period up to five years, or by imprisonment for the same period.

Notes.

1. Giving to a person empowered to exercise public functions, or to a person equated to such person, for the first time, for legal actions (omission to act) committed by him/her earlier, of a gift in the amount or in value which does not exceed two monthly calculation indices, shall not entail criminal liability, unless actions (omission to act) committed by a person empowered to perform public functions, or by a person equated to such person had been agreed in advance.

2. A person having given a bribe shall be exempt from criminal liability, if he/she was extorted to give a bribe by a person empowered to perform public functions, or a person equated to such person, or if such person voluntarily reported the fact of having given a bribe to the body which has the right to institute a criminal case.

*Refer to **Resolution** No. 9, which have a statutory force and effect, issued by the Plenary Session of the Supreme Court of the Republic of Kazakhstan dated 22 December 1995 "On Court Enforcement Practice of the Legislation on Liability for Bribery", **Statutory Resolution** No. 18 issued by the Supreme Court of the Republic of Kazakhstan dated 13 December 2001 "On Court Practice Relating to Criminal Cases Involving Offences of Corruption.*

Article 313. Intermediation in Bribery

1. Intermediation in bribery, i.e. assisting a briber and a bribe-taker in achieving or implementing an agreement between them on the receipt and giving a bribe -

shall be punished by a fine in the amount from one hundred up to three hundred monthly calculation indices, or in the amount of wages or other income of a convict for a period from one to three months, or by correctional labour for a period up to one year, or by restriction of freedom for a period up to two years, or by detention under arrest for a period up to four months, or by imprisonment for a period up to two years.

2. The same act that has been committed repeatedly or by an **organised group**, or by a person using his/her official position, -

shall be punished by a fine in the amount from five hundred up to one thousand monthly calculation indices, or in the amount of wages or other income of a convict for a period from five months up to one year, or by restriction of freedom for a period up to four years, or by imprisonment for the same period.

*Refer to **Resolution** No. 9, which have a statutory force and effect, issued by the Plenary Session of the Supreme Court of the Republic of Kazakhstan dated 22 December 1995 "On Court Enforcement Practice of the Legislation on Liability for Bribery".*

Article 314. Official Forgery

1. Official forgery, i.e. introduction by a person empowered to perform public functions or by a person equated to such person, of deliberately false information into official documents, as well as making corrections in the said document which distort their actual content, or issuing knowingly false or forged documents, where these acts are committed with a view to gaining for extraction of benefits and advantages for himself/herself or other persons or entities, or for a purpose of causing harm to other persons or entities, -

shall be punished by a fine in the amount from one hundred up to two hundred monthly calculation indices, or in the amount of wages or other income of a convict for a period from one to two months, or by engagement in public works for a period from one hundred eighty up to two hundred forty hours, or by correctional labour for a period up to two years, or by detention under arrest for a period up to six months, or by imprisonment for a period up to two years.

2. The same act that has been committed by an officer, -

shall be punished by a fine in the amount from three hundred to five hundred monthly calculation indices or in the amount of wages or other income of a convict for a period from three to five months or by deprivation of freedom up to three years with deprivation of the right to hold certain positions or engage in certain types of activity for a period up to five years.

3. Acts as is mentioned in the **first section** of this Article, where they are committed by a person holding a senior public office, -

shall be punished by a fine in the amount from five hundred to thousand monthly calculation indices or in the amount of wages or other income of a convict for a period from three to seven months or deprivation of freedom up to five years with deprivation of the right to hold certain positions or engage in certain types of activity for a period up to seven years.

Article 315. Inaction in the Service

1. Inaction in the service, i.e. failure by a person empowered to perform public functions, or by a person equated to such person, to perform his/her public duties for the purposes of gaining benefits and advantages for himself/herself or other persons or entities or causing harm to other persons or entities, where such inaction resulted in material violation of the rights and legitimate interests of citizens or entities, or interests of the society or the state, which are protected by law, -

shall be punished by a fine in the amount from one hundred up to two hundred monthly calculation indices, or in the amount of wages or other income of a convict for a period from one to two

months, or by deprivation of the right to hold certain positions or to engage in certain types of activity for a period up to three years, or by detention under arrest for a period up to four months, or by deprivation of freedom for a period up to two years.

2. The same act that has been committed by an officer, -

shall be punished by a fine in the amount from three hundred up to five hundred monthly calculation indices, or in the amount of wages or other income of a convict for a period from three to five months, or by deprivation of freedom for a period up to three years with deprivation of the right to hold certain positions or to engage in certain types of activity for a period up to five years.

3. The same act that has been committed by a person holding a senior public office, -

shall be punished by a fine in the amount from five hundred up to eight hundred monthly calculation indices or in the amount of wages or other types of income of a convict for a period from five to eight hundred months or by deprivation of freedom for a period up to five years with or without deprivation of the right to hold certain positions or engage in certain types of activity for a period up to five years.

4. Acts as is mentioned in the [first, second, or third sections](#) of this Article, which resulted in grave consequences, -

shall be punished by deprivation of freedom for a period up to eight years with deprivation of the right to hold certain positions or to engage in certain types of activity for a period up to seven years.

Article 316. Negligence

1. Negligence, i.e. a failure to fulfil or improper fulfilment by an official of his/her duties as a result of his/her unscrupulous or neglectful attitude towards his/her duties, if such failure resulted in material violation of the rights and legitimate interests of citizens or entities, or interests of the society or the state, which are protected by law, -

shall be punished by a fine in the amount up to two hundred monthly calculation indices, or in the amount of wages or other income of a convict for a period from one to three months, or by engagement in public works for a period from one hundred eighty up to two hundred forty hours, or by correctional labour for a period up to one year, or by detention under arrest for a period up to three months.

2. The same act that has entailed by negligence human death or other grave consequences, -

shall be punished by imprisonment for a period up to five years with deprivation of the right to hold certain positions or to engage in certain types of activity for a period up to three years.