

On the Victims Compensation Fund

Unofficial translation

Law of the Republic of Kazakhstan dated January 10, 2018 No. 131-VI.

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The present Law defines the legal, economic, social and organizational bases directed on maintenance of payment of compensation to victims on separate structures of criminal offences.

Chapter 1. GENERAL PROVISIONS

Article 1. Basic concepts used in this Law

The following basic concepts are used in this Act:

- 1) a person endowed with the rights of the victim - legal representatives and representatives of the victim, legal successors in accordance with the Criminal Procedure Code of the Republic of Kazakhstan;
- 2) Victims' Compensation Fund - control cash account opened in the central authorized body on budget execution for crediting the proceeds of money and compensation to victims in the manner prescribed by the legislation of the Republic of Kazakhstan on the Victims' Compensation Fund;
- 3) Compensation - a lump sum payment of money in the manner prescribed by this Law to a person recognized as a victim in accordance with the Criminal Procedure Code of the Republic of Kazakhstan;
- 4) regress claims - measures taken by the prosecutor's office in respect of persons specified in Article 11 of this Law to ensure the return of money paid to victims as compensation.

Article 2. Legislation of the Republic of Kazakhstan on the Victims Compensation Fund

1. The legislation of the Republic of Kazakhstan on the Victims Compensation Fund is based on the Constitution of the Republic of Kazakhstan and consists of the Criminal Code, the Code of Criminal Procedure, the Code of Criminal Procedure, the Code of Penal Enforcement and the Budget Code of the Republic of Kazakhstan, this Law and other regulatory legal acts of the Republic of Kazakhstan.

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

Article 3. Basic Principles of Compensation for Victims

The payment of compensation to victims is based on principles:

- 1) Legality;

- 2) Respect for the rights, freedoms and legitimate interests of a person and citizen;
- 3) accessibility.

Article 4. Powers of public authorities exercising criminal prosecution functions

State authorities exercising criminal prosecution functions:

1) explain to the victim the right to receive compensation in the manner prescribed by the legislation of the Republic of Kazakhstan on the Victims Compensation Fund;

Subparagraph 2) shall be enforced dated 01.07.2020 in accordance with the Law of the Republic of Kazakhstan dated 10.01.2018 № 131-VI.

2) Request information necessary to make a decision on awarding compensation;

3) if there are grounds for awarding compensation in accordance with the procedure established by the legislation of the Republic of Kazakhstan on the Victims Compensation Fund;

4) maintain a centralized register of recipients of compensation;

5) submit a centralized register of recipients of compensation to the central authorized body for budget execution on a monthly basis by the fifteenth day of the month following the decision to award compensation;

6) develop and approve a joint regulatory legal act regulating the return of unjustified compensation.

Article 5. Powers of the Central Authorised Body for Budget Execution

Central authorized body for budget execution:

1) develop and approve the form of the centralized register of recipients of compensation and the procedure for its submission;

2) forms payment documents on the basis of the centralized register of recipients of compensation;

3) pays compensation from the Victims Compensation Fund in accordance with the procedure established by the legislation of the Republic of Kazakhstan on the Victims Compensation Fund.

Chapter 2. TIME OF THE POSTERPHONE COMPENSATION OF THE POSTERPHONE

Article 6. Victims entitled to compensation

1. Compensation shall be awarded to:

1) minors who are victims of crimes of sexual violence, persons recognised as victims of crimes of human trafficking and torture:

criminal offences under Articles 110 (paragraph 4) of part two), 120 (paragraph 1), part 3-1, paragraphs 1) and 3) of part 3-2 and part four), 121 (paragraph 1) of part 3-1, paragraphs 1) and 3) of part 3-2 and part four), 123 (part two), 124, 128 (parts one, two, three and paragraph 1) of part four), 134, 135 (parts one, two, three and paragraph 1) of part four) and 146 (parts one and two) of the Criminal Code of the Republic of Kazakhstan;

2) persons who have suffered grievous bodily harm or have been infected with human immunodeficiency virus (HIV/AIDS):

criminal offences under Article 106 (parts one, two and three) (in the case of an offence committed by a criminal group), 114 (parts three and four), 116 (part three) (in the case of grievous bodily harm), 118 (parts 2 and 3), 119 (part two) (in terms of causing grievous bodily harm), 120 (paragraph 2) (in terms of causing grievous bodily harm or HIV infection), 121 (paragraph 2 of part three) (as to infliction of grievous harm to the health of the victim or a victim with HIV), 125 (part 3) of part three) (as to infliction of grievous harm to health), 126 (paragraph 3) of part three) (as to infliction of grievous harm to health), 127 (paragraph 4) of part two) (as to infliction of grievous harm to health), 128 (paragraph 2) of part four) (in terms of causing grievous bodily harm), 135 (paragraph 2) of part four) (in terms of causing grievous bodily harm), 141 (part one) (in terms of causing grievous bodily harm) and 146 (part three) (in terms of causing grievous bodily harm), 192 (paragraph 5) of part two), 202 (paragraph 2) of part two) (in terms of causing grievous harm to health), 203 (paragraph 2) of part two) (in terms of causing grievous harm to health), 255 (paragraph 2) of part three), (in terms of causing grievous harm to health), 261 (part three) (in terms of causing grievous harm to health), 269 (part three) (in terms of causing grievous harm to health), 270 (part three) (in terms of causing grievous harm to health), 277 (parts one and two) (in terms of causing grievous harm to health), 317 (parts two and five), 319 (part five) (in terms of causing grievous harm to health), 320 (part two) (in terms of causing grievous harm to health), 322 (part two) (in terms of causing grievous harm to health), 344 (part one) (relating to grievous bodily harm), 345 (part two), 345-1 (part two), 346 (part four), 350 (part one) (relating to grievous bodily harm), 351 (part one), 352 (relating to grievous bodily harm), 355 (paragraph 1) of part two) (in terms of causing grievous harm to health), 356 (paragraph 1) of part two) (in terms of causing grievous harm to health), 358 (part three) and 359 (part two) of the Criminal Code of the Republic of Kazakhstan;

3) persons entitled to the victim's rights in the event of the victim's death:

under criminal offences under articles 99, 104, 105 (for inciting a person to suicide), 106 (part three) (for an offence which recklessly caused the victim's death), 116 (part three) (for an offence which recklessly caused the death of the victim or the death of two or more persons), 119 (parts three and four), 120 part four (for an offence which recklessly caused the death of the victim) 121 (paragraph 2) of part 3-2, part four (in respect of the offence entailing the death by negligence of the victim, 125 (paragraph 3) of part three) (in respect of the offence entailing the death by negligence of the victim or the death of two or more persons), 126 (paragraph 3) of part three) (in respect of the offence entailing the death of the victim or the death of two or more persons), 127 (paragraph 4) of part two) (relating to an offence involving the death by negligence of the victim or the death of two or more persons), 128 (paragraph 2) of part four) (relating to an offence involving the death by negligence of the victim or the death of two or more persons), 135 (paragraph 2) of part four) (relating to an

offence involving the death by negligence of the victim or the death of two or more persons), 141 (part two), 146 (part three) (relating to the offence of negligence resulting in the death of the victim), 192 (paragraph 1) of part three), 202 (paragraph 1) of part three), 203 (part three), 255 (paragraph 2) of part three) (in respect of an offence involving the negligent death of a person or the death of two or more persons), 261 (part three) (in respect of an offence involving the negligent death of a person or the death of two or more persons), 269 (part three) (in respect of an offence involving the negligent death of a person or the death of two or more persons), 270 (part three) (in respect of an offence entailing the death by negligence of a person or the death of two or more persons), 277 (parts two and three) (in respect of an offence entailing the death by negligence of a person or the death of two or more persons), 317 (parts three and four), 319 (part five) (in respect of an offence entailing the death by negligence of the victim), 320 (part two) (in respect of an offence entailing the death by negligence of a patient), 322 (parts three and four), 344 (parts two and three), 345 (parts three and four), 345-1 (parts three and four), 346 (parts five and six), 348 (parts three and four), 349 (parts three and four), 350 (parts two and three), 351 (parts two and three), 352 (in respect of an offence causing the death of a person or the death of two or more persons), 353 (parts three and four), 354 (parts three and four), 355 (paragraph 4) of part three), 356 (paragraph 4) of part two), 358 (parts four and five) and 359 (parts three and four) of the Criminal Code of the Republic of Kazakhstan.

In the cases provided for in paragraph 7 of Article 8 of this Law, no compensation shall be awarded to victims.

2. Foreigners and stateless persons shall be entitled to compensation from the moment they are recognised as victims, unless otherwise provided by laws and international treaties ratified by the Republic of Kazakhstan.

Footnote. Article 6 as reworded by Law of the RK No. 359-VI dated 03.07.2020 (shall come into effect on 01.07.2020); as amended by Law of the RK No. 49-VII dated 09.06.2021 (shall come into effect on 11.01.2021).

Article 7. Amount of compensation for victims

1. The amount of compensation to victims in the cases provided by subparagraph 1) of paragraph 1 of Article 6 of this Law shall be thirty monthly calculation indices.

2. The amount of compensation to victims in the cases stipulated by subparagraph 2) of paragraph 1 of Article 6 of this Law shall be forty monthly calculation indices.

3. The amount of compensation to victims in cases stipulated by subparagraph 3) of paragraph 1 of Article 6 of this Law shall be fifty monthly calculation indices.

4. In case of recognition as the victim of one person on set of the criminal offences provided by point 1 of article 6 of the present Law, indemnification shall be appointed by absorption of the smaller size of indemnification by the big size of indemnification of one of criminal offences.

Article 8. Procedures for awarding compensation to victims

1. After recognition of the person as the victim he has the right to address with the statement on appointment of indemnification to it (further - the statement) in the state body which is carrying out functions of criminal prosecution.

2. Term of consideration of the statement of the victim or the person endowed with the rights of the victim, the state body which is carrying out functions of criminal prosecution, makes ten calendar days from the date of its registration.

3. The limitation period for filing an application is three years from the date of recognition of the person as a victim.

4. In case of missing the deadline for submission of the application, the victim or the person endowed with the rights of the victim shall have the right to apply to the court to restore the missed deadline in the manner prescribed by the legislation of the Republic of Kazakhstan.

5. At the request of the victim or the person endowed with the rights of the victim, the State body exercising the functions of criminal prosecution:

1) Consider the said application;
2) Inform the victim or the person endowed with the rights of the victim in writing of the results of the consideration of the application with an explanation of the right to appeal the decision taken.

6. The decision to award or refuse compensation is taken by the authorized head of the State body responsible for criminal prosecution.

Compensation shall be granted on the basis of the following documents:

1) statements of the victim or the person endowed with the rights of the victim;
2) Copies of a document certifying the identity of the victim, or documents confirming the identity and right of the person endowed with the rights of the victim to receive compensation ;

3) information on the number of the bank account of the victim or the person authorized by the victim, opened with the banks and (or) organizations performing certain types of banking operations;

4) copies of the resolution of the body conducting criminal proceedings on recognition of the person as a victim;

5) copies of the document confirming the nature and degree of severity of damage caused to health of the victim;

6) in case of death of the victim - copies of the death certificate or other document confirming the death of the victim.

All members of the deceased's family shall be entitled to one compensation. For each deceased person who is a member of the same family, a separate compensation is awarded.

Documents stipulated by subparagraphs 1), 2) and 3) of the present paragraph shall be submitted by the victim or by the person endowed with the rights of the victim; if necessary, other documents may be submitted to them.

The victim or the person endowed with the rights of the victim shall be responsible for the accuracy of the submitted documents in accordance with the laws of the Republic of Kazakhstan.

Documents stipulated by subparagraphs 4), 5) and 6) of the present paragraph shall be provided by the state body carrying out functions of criminal prosecution.

Responsibility for unjustified appointment of compensation and inclusion in the centralized register of its recipients shall be borne by the authorized head of the state body performing the functions of criminal prosecution in accordance with the laws of the Republic of Kazakhstan.

7. Grounds for refusal of compensation are:

- 1) Absence of grounds stipulated by this Law;
- 2) missing the deadline for submission of the application;
- 3) submission of unreliable documents;
- 4) full compensation by the perpetrator for the harm caused to the victim;

5) The decision of the body conducting the criminal proceedings to terminate the participation of the person as a victim.

A decision not to award compensation may be appealed by the victim or by the person endowed with the rights of the victim in accordance with the procedure established by the legislation of the Republic of Kazakhstan.

Article 9. Procedure and timing for payment of compensation

1. Compensation shall be paid by the central competent authority for budget execution not later than ten calendar days following the date of submission by the state authority performing the functions of criminal prosecution of the centralized register of recipients of compensation to the bank account of recipients of compensation.

2. In case of lack or insufficiency of money, the payment of compensation shall be made by the central authorized body for budget execution, by replenishing the resources of the Compensation Fund to the victims at the expense of sources specified in paragraph 1 of Article 10 of this Law.

Chapter 3. STATUS FORMING FORMING OF THE POTER-PEOPLE COMPENSATION FUND

Article 10. Sources of formation of the Victims Compensation Fund

The sources of the Victims Compensation Fund are non-tax revenues, which include

- 1) Compulsory payments collected by the court;
- 2) Monetary penalties imposed by the court for non-fulfillment of procedural obligations under Articles 71, 78, 80, 81, 82, 90, 142, 156 and 165 of the Code of Criminal Procedure of the Republic of Kazakhstan, and violation of the order of the court session on the victim, witness, specialist, interpreter and other persons, except for the lawyer, prosecutor and defendant;

3) Monetary penalties from a convicted person in respect of whom a guilty verdict of the court has come into force and in respect of whom a punishment in the form of correctional labour has been imposed;

4) money collected as recourse claims;

5) other sources not prohibited by the legislation of the Republic of Kazakhstan.

2. When a court passes a guilty verdict on the perpetrators to the Fund for Compensation of Victims, a forced payment shall be collected on the basis of Articles 98-1 and 98-2 of the Criminal Code of the Republic of Kazakhstan.

In the event that a group of persons commits a criminal offence, a forced payment is collected from each guilty person separately.

If a guilty person is convicted on the basis of a set of criminal offences, a forced payment corresponding to the category of the most serious criminal offence is charged.

3. The balance of money of the Compensation Fund to victims shall not be subject to withdrawal (transfer) to the state budget.

4. It is not allowed to issue collection orders to the Victims Compensation Fund.

Article 11. Regress requirements

1. Regress claims from the perpetrators for compensation paid to victims are made by the prosecutor's office as part of representing and defending the interests of the State in court.

2. Money paid to victims from the Victims Compensation Fund is also subject to recovery by the court:

1) legal representatives of a minor found guilty of a crime;

2) legal entities bearing material responsibility for the damage caused by a criminal offence of an individual in accordance with the laws of the Republic of Kazakhstan;

3) Persons in respect of whom criminal prosecution has been terminated on the grounds provided for in paragraphs 3), 4) and 12) of paragraph one of Article 35 or paragraph one of Article 36 of the Criminal Procedure Code of the Republic of Kazakhstan;

4) The victim in cases where it has been established that he or she has been provided with unreliable information to obtain compensation and that the criminal offences have been reclassified to offences other than those provided for in article 6 of this Act, and where the criminal case has been discontinued or the court's verdict of acquittal has come into force in the absence of an event of a criminal offence.

Chapter 4. FINAL PROVISION

Article 12. Liability for violation of the legislation of the Republic of Kazakhstan on the Victims Compensation Fund

Violation of the legislation of the Republic of Kazakhstan on the Compensation Fund by victims shall entail liability established by the laws of the Republic of Kazakhstan.

Article 13. Procedure for implementation of this Law

This Law shall be enforced upon ten calendar days after the date of its first official publication, except for subparagraphs 1), 2), 2), 3) and 5) of paragraph 1, paragraphs 2, 3 and 4 of Article 10, which shall be enforced dated July 1, 2018, and subparagraphs 1), 2), 3), 4) and 5) of Article 4, subparagraphs 2) and 3) of Article 5, Articles 6, 7, 8 and 9, subparagraph 4) of paragraph 1 of Article 10, Article 11, which shall be enforced dated July 1, 2020.

The President

Republic of Kazakhstan

N. Nazarbaev

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