

The law of the Republic of Kazakhstan on refugees (with amendments and additions as of 11.04.2014)

On the changes to the current Code, see:

Law of the RK of 03.07.14 №227 – V (coming into force January 1, 2015).

The present law governs the legal status of asylum seekers and refugees on the territory of the Republic of Kazakhstan.

Article 1. Major terms used in the law.

The present law applies the following major definitions:

1) refugee – a foreigner who owing to a well-founded fear of being persecuted for reasons of race, ethnicity, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country; or a stateless person, who is outside the country of his former habitual residence and is unable or, unwilling to return to it owing to such fear;

Point 2 presented in the wording of the Law of the RK from 29.01.13, №74-V ([see the previous version](#));

2) refugee certificate – a document, certifying the holder's identity and refugee status;

3) travel document – a document issued to a person with a refugee status to move outside the Republic of Kazakhstan;

4) safe third country - a country where an asylum-seeker had been staying temporarily before arriving to the Republic of Kazakhstan and where s/he may be or has been granted access to effective protection and refugee status determination mechanisms;

5) asylum – protection on the territory of Kazakhstan granted to asylum-seekers by means of granting the refugee status

6) asylum-seeker - a foreigner or stateless person who has expressed intention to apply for asylum in the Republic of Kazakhstan until a final decision is delivered by the authorised body on their refugee status claim;

7) asylum-seeker certificate – a document issued by the authorised body certifying the holder's refugee claim has been registered;

8) authorised body – a state body governing refugee-related issues;

9) country of origin – the country of nationality of a foreigner or of habitual residence of a stateless person.

Article 2. Application of the law

1. This law governs the legal status of asylum seekers and refugees on the territory of the Republic of Kazakhstan.

2. The provisions of this law shall not apply to the granting of political asylum in the Republic of Kazakhstan or to those persons who left the country of their nationality or habitual residence for economic reasons.

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

1. The legislation of the Republic of Kazakhstan on refugees is based on the Constitution of the Republic of Kazakhstan and consists of the present law and other legal normative acts of the Republic of Kazakhstan.

2. If an international treaty ratified by the Republic of Kazakhstan stipulated provisions different than those stipulated in this law, the international treaty provisions shall apply.

Article 4. Major principles of the present law

Major principles of refugee state policy include the following:

- 1) ensuring the right of asylum-seekers and refugees to asylum in accordance with the procedure set in this law;
- 2) non-discrimination based on race, ethnicity, nationality, language, religion, political opinion, and/or social origin upon refugee status determination;
- 3) confidentiality of information on the private life of asylum-seekers and refugees;
- 4) assistance in the family re-unification of asylum seekers and refugees;
- 5) protection of the rights of refugee children in Kazakhstan in accordance with legislation of the Republic of Kazakhstan on the rights of a child;
- 6) non-refoulement of asylum-seekers and refugees in view of the grounds envisaged by Article 18 paragraph 2 part 2 herein..

Article 5. Competence of the Government of the Republic of Kazakhstan

The Government of the Republic of Kazakhstan

- 1) develops main refugee state policy directions;
- 2) adopts legal statutory acts related to refugees within its competence/authority;
- 3) defines the order of granting, prolongation, revocation and cessation of refugee status;
- 4) defines areas for temporary settlement in the event of a mass influx of asylum-seekers and takes relevant decisions;

Point 4-1 is added to the Article 5 in line with the Law of the RK from 29.01.13, №74-V

- 4-1) defines the official refugee certificate and requirements to its protection.
- 5) exercises other powers in accordance with the Constitution, laws of the Republic of Kazakhstan and Decrees of the President of the Republic of Kazakhstan.

Article 6. Competence of the authorised body

The authorised body on refugee issues:

- 1) implements state refugee policy;
 - 2) drafts and approves legal acts on refugee issues within the scope of its authority;
- Point 2-1 is added to the Article 6 in line with the [Law](#) of the RK from 13.06.13, №102-V (see the [previous version](#))*
- 2-1) coordinates and directs the local executive bodies, dealing with refugees;
 - 3) ensures international co-operation concerning refugee issues;
 - 4) Excluded in line with the [Law](#) of the RK from 03.07.13, №124-V ([see the previous version](#));
 - 5) Excluded in line with the [Law](#) of the RK from 13.01.14, №159-V ([see the previous version](#));
 - 6) ensures state control of compliance with the refugee legislation of the Republic Kazakhstan;
- Point 7 bears ammendments in line with the [Law](#) of the RK from 29.12.10, №372-IV (see the [previous version](#))*
- 7) approves the [order](#) of registration and consideration of applications for granting refugee status, and samples of identification of the asylum-seeker;
 - 8) within its competence assists a person with a refugee status to obtain information on his relatives resident in the country of origin;
 - 9) issues asylum seeker certificate;
 - 10) implements procedures on granting, prolongation, revocation and cessation of refugee status;

Point 11 is reworded in line with the [Law](#) of the RK from 29.01.13, №74-V ([see the previous version](#))

11) approves the [sample](#) of the refugee certificate, realizes the issuance of the refugee certificate and the travel document.

Point 12 bears amendments in line with the [Law](#) of the RK from 29.12.10, № 372-IV ([see the previous version](#))

12) compiles lists of asylum seekers and refugees and monthly sends the lists to the national security organs;

13) drafts and approves regulations on the commission for refugee status determination which makes decisions on the prolongation, revocation and cessation of refugee status, and establishes the said commission;

Point 13-1 is added to the Article 6 in line with the Law of the RK from 29.12.10, №372-IV ([see the previous version](#))

13-1) ensures preservation of the rights of asylum-seekers and refugees;

Point 13-2 is added to the Article 6 in line with the Law of the RK from 29.12.10, №372-IV ([see the previous version](#))

13-2) implements registration of asylum-seekers and refugees;

Point 13-3 is added to the Article 6 in line with the Law of the RK from 29.12.10, №372-IV ([see the previous version](#))

13-3) At the request of national security bodies restricts or prohibits the access of asylum-seekers and refugees to certain parts of the territory or objects located in the frontier zone following natural and man-caused emergencies, during frontier search of border trespassers, the repulsion of a military invasion or mass influx of nationals of a neighbouring state to the territory of Kazakhstan;

Point 13-4 is added to the Article 6 in line with the Law of the RK from 29.12.10, №372-IV ([see the previous version](#))

13-4) implements the forced deportation of asylum-seekers and refugees to enforce court rulings that have gone into effect;

14) fulfils other functions in accordance with this Law, other laws, and Presidential and Governmental decrees.

Article 7. Competence of other state bodies of the Republic of Kazakhstan

1. Authorised foreign policy body:

1) represents the Republic of Kazakhstan in relations with foreign states and international organizations on refugee related issues;

2) Excluded in line with the Law of RK from 03.07.13, №124 – V([see the previous version](#));

3) in the order provided for by the legislation, submits to the President, Parliament, Government of the Republic of Kazakhstan its proposals and recommendations on interaction between the Republic of Kazakhstan and foreign states and international organizations on refugee issues;

4) ensures participation of the Republic of Kazakhstan in the activities of international organizations, conferences, and forums on refugee issues and in international refugee rights protection initiatives;

5) within its competence assists a person with a refugee status to obtain information on his relatives resident in the country of origin

6) fulfils other functions in accordance with this Law, other laws, and Presidential and Governmental decrees.

2. *Excluded in line with the Law of the RK from 29.12.10, № 372-IV ([see the previous version](#));*

Point 2-1 was added to the article in line with the Law of the RK from 11.04.14, №189-V;

2-1. An authorized body in the domain of civil protection.

- 1) submits offers of issuing material value from the State material reserves for assisting refugees to the Government of the Republic of Kazakhstan in accordance with the official procedures by the legislature of the Republic of Kazakhstan.
- 2) assists local executive bodies with the deployment of tent camps, preparation of stationary camps for the reception of refugees;
- 3) provides fire safety in tent and stationary camps for the reception of refugees;
- 4) exercises other tasks, authorized by the current Law, other Laws of the Republic of Kazakhstan, decrees 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 will regulate refugee related issues within their competence, as provided for in this Law, other laws, and Presidential and Governmental decrees.

Article 8. Rights and obligations of asylum-seekers

1. Asylum-seekers have the right to the following:

- 1) access to free interpretation/translation services and information about the refugee status determination procedure and asylum-seeker rights and responsibilities;
- 2) application for refugee status through consular bodies of the Republic of Kazakhstan;
- 3) withdrawal of refugee status application;
- 4) appeal of the decision of an authorised body on refusal to grant refugee status;
- 5) stay in the Republic of Kazakhstan until the final decision is taken on his/her refugee status application including the appeal period;
- 6) voluntary repatriation to the country of origin or resettlement to a third country;
- 7) health service in accordance with the healthcare legislation of the Republic of Kazakhstan;
- 8) freedom of employment and entrepreneurship in accordance with the legislation of the Republic of Kazakhstan;
- 9) access to court to defend property and personal non-property rights and benefits.

2. Asylum-seekers have the following obligations:

- 1) to provide true information required for refugee status determination;
- 2) to undergo a mandatory medical examination according to the terms and procedure provided by the authorised healthcare body;
- 3) to abide by the legislation of the Republic of Kazakhstan;
- 4) to inform the authorised body of any intention to leave the territory of the Republic of Kazakhstan;

Point 5 is worded in accordance with the Law of the RK from 29.12.10, № 372-IV (see the previous version);

- 5) to de-register in the authorised body in the event of a change of residence within the territory of the Republic of Kazakhstan and respectively re-register within 5 working days upon arrival at the new place of residence.

3. Asylum-seekers enjoy other rights and freedoms and fulfil other duties provided by the Constitution, laws and international treaties of the Republic of Kazakhstan for foreigners and stateless persons.

Article 9. Rights and obligations of refugees

1. Refugees have the right to the following:

- 1) asylum;
- 2) request for information from relevant state authorities about their relatives staying in the country of origin;

- 3) appeal of the decision of the authorised body on refusal to extend, revocation and cessation of refugee status;
- 4) voluntary repatriation to the country of origin or resettlement to any third country;
- 5) health services in accordance with the healthcare legislation of the Republic of Kazakhstan;
- 6) freedom of employment and entrepreneurship in accordance with the legislation of the Republic of Kazakhstan;
- 7) access to court to defend proprietary and personal rights and interests;
- 8) export to resettlement country of property that refugee brought with him/her or legally acquired in the Republic of Kazakhstan;
- 9) refugee certificate and refugee travel document.

2. Refugees have the following obligations:

- 1) to abide by the laws of the Republic of Kazakhstan;
- 2) to inform the authorised body on his/her intention to leave the country;
 Point 3 bears amendments in line with the Law of the RK from 29.12.10, №372-IV (see the previous version);
- 3) de-register at the authorised body in case of changing the place of residence in the Republic of Kazakhstan to and re-register respectively within 5 working days since the arrival at a new place of residence;

3. Refugees enjoy other rights and freedoms and fulfil other obligations provided by the Constitution, laws and international treaties of the Republic of Kazakhstan for foreigners and stateless persons

Article 10. Refugee claim submission and registration

1. Asylum-seeker may submit a refugee claim in writing, in person or through an authorised representative to the local authorised body within five calendar days upon arrival to Kazakhstan or from the moment an asylum-seeker has learnt about circumstances giving rise to fear to become victim of persecution based on race, ethnicity, religion, nationality, membership of a particular social group or political opinion.

2. If asylum seeker has not yet arrived in Kazakhstan, he/she may submit a refugee claim in writing, in person or through an authorised representative to the diplomatic representation or consular agency of the Republic of Kazakhstan.

The diplomatic representation or consular agency of the Republic of Kazakhstan remits the refugee claim to the authorised body through diplomatic channels.

Point 3 bears amendments with the Law of the RK from 16.01.13, №71-V (see the previous version); is worded in accordance with the Law of the RK from 13.06.13, №102-V (see the previous version).

3. On crossing the state border a person shall submit a refugee claim in writing to the migration check point; or, in the event that a checkpoint is absent, to the border guard service unit.

In the absence of a checkpoint at the state border of the Republic of Kazakhstan, the asylum seeker shall apply to the authorised migration service agency within 1 day in the event of forced illegal crossing of the border.

Point 4 bears amendments with the Law of the RK from 27.04.12, №15-V (see the previous version)

4. In cases when individuals detained for illegal entry or stay in the Republic of Kazakhstan express their intention to seek asylum, the competent bodies shall inform the authorised body within one day since detention.

The authorised body within two days shall clarify circumstances of their stay on the territory of the Republic of Kazakhstan and register the refugee claim.

5. Information on accompanying the asylum seeker family members under 18 years shall be appended to the claim of one of the child's parents on the basis of available birth certificates; if the parents are absent, such information shall be included to the claim of a legal representative.

Point 6 bears amendments with the Law of the RK from 29.12.10, №372-IV (see the previous version)

6. On the registration day the applicant is issued an asylum-seeker certificate and is registered until a decision on his/her claim is taken.

7. Information on family members under 18 years is included on the asylum seeker's certificate of one of the parents or legal representatives.

An asylum seeker under 18 years who has arrived in the Republic of Kazakhstan without parents or legal representatives is issued an asylum seeker certificate.

See Rules of registration and consideration of applications about the assignment of the refugee status.

Article 11. Refugee status determination

1. The decision on granting refugee status is made by the authorised body within three months from registration of the application for refugee status.

In cases where additional checks are needed, the final decision must be issued within one year.

2. Refugee status determination is carried out for each family member over 18 years of age on the basis of the circumstances stipulated in Article 1 subparagraph 1 herein.

In the absence of circumstances stipulated in Article 1 subparagraph 1 herein the family member is granted refugee status for the purpose of family reunification upon his/her consent.

The spouse of the recognised refugee or the asylum seeker in the Republic of Kazakhstan for the purpose of family reunification is subject to the same requirements hereof as well as Articles 10, 12, 13 and 14 herein.

The spouse and children under 18 of the recognised refugee or the asylum seeker, who arrive later in the Republic of Kazakhstan, shall submit the proof of family link to the authorised body upon submission of a claim for the purpose of family reunification.

In case the family unity is broken due to divorce or death of the refugee, the refugee status of the family members is maintained till the expiry date of the refugee status.

3. Refugee status determination with regards to a person under 18 who has arrived in Kazakhstan without parents or legal representatives, is carried out with considering of the best interests of this person in accordance with this Law after receipt of information on the parents or legal representatives.

4. If a recognised refugee becomes a parent, the legal status of his/her child is determined in accordance with the laws of the Republic of Kazakhstan.

5. Refugee status is granted for one year. The applicant who has been granted refugee status is issued a refugee certificate within five working days from the date of the decision.

If the circumstances underlying the refugee status determination remain the same in the country of origin, the refugee status is prolonged for one year and every subsequent year by the authorised body on the basis of an application submitted by the refugee 1 month prior to the lapse of the status.

6. If refugee status is not granted, the authorised body sends the asylum seeker a copy of the negative decision explaining the reasons for rejection and appeal procedure within 5 working days.

See Rules on assignment, extension, deprivation and termination of the refugee status.

Article 12. Grounds for rejection of asylum claim

1. Refugee status may be denied to an asylum seeker in the following cases:

- 1) absence of well-founded fear that the applicant may be subjected to persecution based on race, ethnicity, religion, nationality, membership of a particular social group or political opinion;
- 2) the applicant refuses to provide information about himself/herself and circumstances of his/her arrival in the Republic of Kazakhstan or provides deliberately false information, and forged documents;
- 3) the applicant is a national of a third country and may avail himself of the protection of that country;
- 4) the applicant has arrived directly from a territory of a safe third country;
- 5) there are reasonable grounds to believe the applicant took part in the activities of terrorist, extremist or banned religious organisations functioning in the country of origin or country from which he/she has arrived;
- 6) there are reasonable grounds to believe the applicant has committed a crime against peace, a war crime, or a crime against humanity as defined in the international instruments drawn up to make provision in respect of such crimes;
- 7) there are reasonable grounds to believe the applicant has committed a serious non-political crime outside the Republic of Kazakhstan prior to his/her arrival to the Republic of Kazakhstan;
- 8) there are reasonable grounds to believe the applicant has been guilty of acts contrary to the purposes and principles of the United Nations and international organisations to which Kazakhstan is a member;
- 9) the applicant enjoys the protection from or is rendered assistance by United Nations agencies other than the United Nations High Commissioner for Refugees.

Article 13. Revocation of a refugee status

Refugee status shall be revoked if a refugee:

- 1) deliberately provided false information or presented forged documents, on the basis of which this person was granted refugee status;
 - 2) was convicted for having committed a crime against peace, a war crime, or a crime against humanity as defined in the international instruments drawn up to describe such crimes;
 - 3) was convicted for having committed a serious non-political crime outside the Republic of Kazakhstan prior to his/her arrival to the Republic of Kazakhstan;
 - 4) was convicted for having committed an act contrary to the purposes and principles of the United Nations and international organisations to which Kazakhstan is a member;
 - 5) was convicted for participation in the activities of a terrorist, extremist or banned religious organisations.
2. The authorised body shall within 5 working days send the asylum seeker a copy of the decision on refugee status revocation that also explains the reasons for revocation and the appeals procedure.

See Rules on assignment, extension, deprivation and termination of the refugee status.

Article 14. Cessation of a refugee status

1. Refugee status shall cease if an individual:

- 1) has acquired nationality of the Republic of Kazakhstan or nationality of another state and enjoys the protection of the country of his new nationality;
- 2) he can no longer continue to refuse to avail himself of the protection of the country of his nationality because the circumstances in connection with which he has been recognized as a refugee have ceased to exist,;
- 3) having lost his nationality, has voluntarily re-acquired it;
- 4) has voluntarily re-availed himself of the protection of the country of his nationality;

- 5) expressed intention to return to his/her country of origin, because the grounds for granting him/her refugee status have ceased to exist;
 - 6) has voluntarily returned to the country which he left or outside which he remained owing to a fear of prosecution; or
 - 7) has left the Republic of Kazakhstan for permanent residence in another country.
2. Refugee status shall cease upon its expiry unless it has been prolonged.
 See Rules on assignment, extension, deprivation and termination of the refugee status.

Article 15. Procedure for appealing decision of authorized body

The decision of the authorised body on rejection of an application for asylum or prolongation of refugee status, or revocation of refugee status may be appealed in the higher instance authorised body and/or in court according to the procedure provided in the laws of the Republic of Kazakhstan.

Article 16. Protection of children seeking asylum and refugee children

1. Children seeking asylum and refugee children who have arrived without parents or other legal representatives or whose parents and other family members cannot be located, shall enjoy the same level of protection in the Republic of Kazakhstan, as other children left in absence of parental care in accordance with the child rights legislation of the Republic of Kazakhstan.
2. Refugee children, who are not accompanied in the Republic of Kazakhstan by their parents or legal representative, shall be issued the refugee certificate.

Article 17. Acquisition of citizenship of the Republic of Kazakhstan

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

Article 18. Repatriation and deportation

1. Asylum-seekers and refugees shall leave the territory of the Republic of Kazakhstan voluntarily together with their family members within one month since delivery of decision of an authorised body or court on rejection of asylum claim, and prolongation of refugee status or cancellation of refugee status.

Point 2 bears amendments in line with the Law of the RK from 29.12.10, № 372-IV (see the previous version).

2. If asylum seekers or refugees refuse to leave the territory of the Republic of Kazakhstan voluntarily, their deportation is enforced by the authorized body in accordance with the legislation of the Republic of Kazakhstan and following the final decision of the court.

It is prohibited to return or deport asylum-seekers and refugees to the borders of a country where their lives or freedom are at risk on account of their race, religion, nationality, membership in a particular social group or political opinion.

Article 19. Financial Provisions

Expenses related to refugees in the Republic of Kazakhstan are covered by the state budget and other sources that do not contradict the legislation of the Republic of Kazakhstan.

Article 20. Liability for violation of the refugee legislation of the Republic of Kazakhstan

Violation of the refugee legislation of the Republic of Kazakhstan shall incur liability provided by the laws of the Republic of Kazakhstan.

Refugees and asylum seekers that have committed crimes and administrative and other offences on the territory of the Republic of Kazakhstan shall be liable on the same grounds as nationals of the Republic of Kazakhstan, except for cases stipulated by international treaties ratified by the Republic of Kazakhstan.

Article 21. Manner in which this law will enter into force

This law shall enter into force on January 1, 2010.

**President of the Republic of Kazakhstan
N. Nazarbayev**

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