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# ҚЫЛМЫСТЫҚ ҚҰҚЫҚ, КРИМИНОЛОГИЯ, ҚЫЛМЫСТЫҚ ПРОЦЕСТІК ҚҰҚЫҒЫ МЕН КРИМИНАЛИСТИКАНЫҢ ӨЗЕКТІ МӘСЕЛелЕРІ АКТУАЛЬНЫЕ ПРОБЛЕМЫ УГОЛОВНОГО ПРАВА, КРИМИНОЛОГИИ, УГОЛОВНОГО ПРОЦЕССУАЛЬНОГО ПРАВА И КРИМИНАЛИСТИКИ CURRENT ISSUES IN CRIMINAL LAW, CRIMINOLOGY, CRIMINAL PROCEDURE LAW, AND FORENSIC SCIENCE

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## Special grounds for exemption from criminal liability for crimes in the sphere of economic activity

The aim of the study is to examine and provide a legal analysis of the specific features of the application of special grounds for exemption from criminal liability for crimes committed in the field of economic activity. To achieve this objective, various research methods were employed, including analysis and synthesis, modeling and forecasting, comparative legal and formal-logical methods, as well as a historical approach and other general and specialized methods. The empirical framework of the study is based on the provisions of the criminal legislation of the Republic of Kazakhstan, regulatory resolutions of the Supreme Court and the Constitutional Court of the Republic of Kazakhstan, as well as other regulatory legal acts. The study identifies a number of issues related to legislative gaps, enforcement difficulties, and the ambiguity of legal norms. It proposes revisions in several key areas, including: reparation of damages; the concept of a "first-time offense"; conditions for exemption from criminal liability for specific types of crimes; additional criteria taking into account the personality of the offender and the circumstances of the case; a procedural algorithm for law enforcement agencies and courts; and the conflict between general and special provisions of the Criminal Code of the Republic of Kazakhstan.

*Keywords:* criminal liability, exemption from liability, special grounds for exemption, economic crimes, criminal offenses, damages, income, taxation.

### Introduction

The issue of applying special types of exemption from criminal liability for terrorism in the economic sphere is currently relevant in the Republic of Kazakhstan, as such mechanisms for ensuring law enforcement reduce the burden on the legal system and ensure the restoration of violated rights of the state or victims.

In his Addresses to the People of Kazakhstan and accompanying reforms, the President of the Republic of Kazakhstan emphasizes the humanization of responsibility for violence against criminals, prioritizing compensation for the consequences of a lack of freedom. In his Address to the People of Kazakhstan, "Kazakhstan in the New Reality: Time for Action", dated September 1, 2020, the President of the Republic of Kazakhstan, K.-Zh. K. Tokayev, asserts that no area of socio-economic development can be effectively implemented without ensuring the rule of law and guarantees of citizen security. In this regard, the main role is

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played by the activities of the Economic Investigation Service of the Financial Fund of the Republic of Kazakhstan, aimed at identifying offenses related to the issuance of fictitious invoices, tax evasion, illegal withdrawal of capital, theft of budget funds, as well as the illegal trafficking of oil and petroleum products [1].

The Criminal Code of the Republic of Kazakhstan (CC RK) contains provisions establishing liability for the aforementioned acts, specifically Articles 189 and 197 of the CC RK, as well as a number of other offenses included in Chapter 8 of the CC RK, which is dedicated to criminal offenses in the sphere of economic activity. At the same time, it should be noted that the current criminal legislation lacks a separate article explicitly establishing liability for illegal capital flight. However, such actions may be qualified under other provisions of the criminal law depending on the specific circumstances of the committed act. For instance, the withdrawal of funds through cryptocurrencies or underground crypto-exchanges may be examined within the framework of articles concerning the legalization (money laundering) of proceeds of crime (Art. 218 CC RK) or other related offenses. These criminal components and a number of other economic offenses are regulated by current legislation, and their application depends on the specific circumstances of the case, the amount of damage, and the presence of aggravating or mitigating circumstances [2].

It should be noted that in recent years, the legislation of the Republic of Kazakhstan has undergone a series of changes affecting the sphere of economic crimes. Specifically, certain elements of such crimes have been decriminalized, and for some of them, the threshold for criminal liability has been raised. Examples include provisions related to economic smuggling and evasion of customs payments.

These changes directly impact the relevance of the institution of exemption from criminal liability. The Criminal Code of the Republic of Kazakhstan provides special notes to several articles, allowing a person to be exempted from criminal liability upon fulfilling certain conditions. Such provisions refer to special types of exemption and possess a number of characteristic features in their application. These include the conditional nature of the exemption, its link to the person's post-criminal behavior, and restrictions determined by the category of the crime committed.

As a rule, special types of exemption are discretionary in nature, meaning that the legal practitioner (investigator, prosecutor, or court) has the right, but not the obligation, to exempt a person from liability even in the presence of formal grounds. For the application of many special types of exemption, the guilty party is required to demonstrate active repentance: to surrender voluntarily, assist in solving the crime, compensate for damages, or otherwise redress the harm caused. Furthermore, some special types of exemption may not apply to acts committed by a criminal group, on an especially large scale, or under aggravating circumstances. Thus, in practice, the application of special types of exemption from criminal liability for crimes in the sphere of economic activity in the Republic of Kazakhstan is fraught with a number of issues related to legislative gaps, enforcement challenges, and the ambiguity of legal norms. Examples include the broad differentiation of grounds for exemption, corruption risks, problems with applying the institution of reconciliation, lack of clarity in legal phrasing, and restrictions based on crime categories.

Furthermore, the relevance of this topic is underscored by the fact that research into the application of special grounds for exemption from criminal liability for economic crimes has not been conducted at the doctoral level within Kazakhstani legal science.

In this regard, the aim and objectives of the study are directly dictated by the substance of criminal law provisions as reflected in the legal policy of the Republic of Kazakhstan and the annual Messages of the President to the people of Kazakhstan. The primary goal of the research is to study and analyze the application of special types of exemption from criminal liability for crimes in the sphere of economic activity. This goal sets forth specific objectives aimed at resolving issues related to the application of these special exemptions, optimizing the conditions for their use, and developing concrete proposals for improving legislation and judicial practice.

In both research and the practical application of the types under consideration, various conflicts arise from theoretical disagreements, legislative imperfections, inconsistencies in law enforcement, and methodological challenges. For instance, in criminal law theory, there are disagreements regarding the legal nature of exemption from criminal liability. Debates persist over whether it is merely the state's waiver of its right to enforce liability or a distinct legal institution with its own goals and principles. Likewise, there is no consensus on the elements of active repentance—one of the grounds for exemption. Scholars differ on how many criteria in an individual's actions are sufficient for their conduct to be recognized as active repentance. Some argue that the presence of all conditions listed in the legal provision is necessary, while others contend that a combination of conditions that are both necessary and possible in a given case is sufficient [3].

In the study of problems concerning exemption from criminal liability in the economic sphere, methodological conflicts may arise regarding the choice of analytical approaches and methods. For instance, the question of which method is best suited to evaluate the effectiveness of exemption norms, comparative legal, formal-logical, systemic, or statistical—remains a subject of debate. Furthermore, when examining the interaction between criminal law and other branches (such as civil or tax law), the problem of defining the boundaries of their application arises. For example, to what extent is it permissible to use civil law mechanisms to settle the consequences of economic crimes within the framework of criminal proceedings? [4]

In domestic research and theoretical approaches to this topic, several gaps can be identified. These are related to the lack of comprehensive works that integrate theory and practice—including interdisciplinary links with other branches of law and insights from foreign experience, especially regarding economic crimes. Other gaps include the lack of developed criteria for assessing active repentance, the absence of uniformity in interpreting special notes to the articles of the Criminal Code (e.g., “full restitution” or “voluntariness”), and deficiencies in studying corruption risks, among others. Additionally, in reviewing the literature, the author concluded that the effectiveness of existing exemption mechanisms remains poorly addressed. There is a scarcity of studies that use empirical data to evaluate the extent to which the application of special types of exemption contributes to achieving the goals of criminal justice (e.g., the restoration of social justice, the rehabilitation of the offender, and crime prevention).

#### *Methods and materials*

The methodological framework of this study is based on the dialectical method of cognition and a system-structural approach, which enabled the examination of exemption from criminal liability as a complex legal institute. The formal-legal (doctrinal) method was employed to analyze the provisions of the Criminal Code and the Criminal Procedure Code of the Republic of Kazakhstan. Furthermore, legal hermeneutics and logical-semantic analysis were applied to interpret the normative resolutions of the Constitutional Court and the Supreme Court, specifically regarding the differentiation between “income generation” and “damages”. The empirical basis comprises a content analysis of the law enforcement practice of tax authorities and criminal prosecution bodies (2020–2026). Additionally, the legal forecasting method was used to develop evidence-based recommendations for legislative reform, while elements of comparative law evaluated the integration of international best practices.

#### *Results*

Law enforcement practice in countering crime and ensuring the realization of citizens’ rights and freedoms guaranteed by the Constitution of the Republic of Kazakhstan requires well-developed national legislation that meets international standards. This includes requirements such as logical consistency, clarity of phrasing, internal coherence, and the absence of legal conflicts. In our view, the implementation of these requirements becomes particularly relevant when addressing the issue of exemption from criminal liability in the sphere of economic activity, as uniformity in law enforcement and judicial practice serves as the foundation for stable economic development and the improvement of legislation.

In this regard, one should agree with the opinions of scholars who identify the need for a clearer definition of the conditions for exemption from criminal liability for economic crimes. For instance, let us turn to the practice of tax authorities, which possess the right to unilaterally declare transactions as fictitious. Such qualification could lead to additional tax assessments and the application of penalties, while judicial practice on these matters has not always been consistent [5].

The problem lay in the fact that tax authorities, identifying signs of fictitious transactions through supply chain analysis, cross-checks, or other sources, often did not seek judicial confirmation of the relevant circumstances. During tax audits, such transactions could be treated as having been conducted without the actual delivery of goods or provision of services. Consequently, the taxpayer’s expenses were excluded from corporate income tax (CIT) deductions and value-added tax (VAT) offsets. This, in turn, resulted in significant tax deficiencies and fines. Furthermore, the taxpayer was effectively deprived of the opportunity to prove the validity of the concluded transactions in court [6].

Additional difficulties also arise in the application of notes to articles regarding the possibility of exemption from criminal liability upon voluntary restitution of the damage caused. In practice, the criteria for “voluntariness” and the completeness of such restitution can be interpreted in various ways. This creates certain legal risks for entrepreneurs and complicates the forecasting of potential legal consequences of their actions.

The scientific novelty of this work lies in the analysis of the specifics of applying the types of exemption under consideration, taking into account the interrelationship between criminal law and other branches of law, as well as utilizing foreign experience in regulating similar relations, primarily in the sphere of economic crimes. This approach aligns with the stated aim and objectives of the research.

In this regard, in our view, it is necessary to clarify a number of legislative provisions:

First, it is necessary to establish specific actions that can be regarded as sufficient restitution for the damage caused, which should include not only the return of illegally obtained funds but also compensation for incurred losses, accrued interest (penalties), and fines within the timeframes established by law.

Second, the concept of a “first-time offense” needs clarification. In theory and practice, ambiguity arises when determining whether an offense should be considered committed for the first time if the person has previously been held administratively liable for similar acts.

Third, it is significant to classify the conditions for exemption from criminal liability based on sectoral affiliation, for example, for criminal offenses in the tax sphere.

### *Discussion*

Full payment of tax debt is understood as the settlement of the entire amount of the arrears—that is, taxes and other mandatory payments not paid within the established timeframe, including current and advance payments, as well as the interest (penalties) accrued on this amount. It should be taken into account that tax debt includes not only the principal amount of the arrears but also unpaid interest and penalties [7].

In certain cases, upon full settlement of tax arrears, the legislation allows for the write-off of accrued interest (penalties) and fines. For instance, the Rules for the Write-off of Interest and Fines, approved by the Order of the Minister of Finance of the Republic of Kazakhstan No. 13 dated February 13, 2026, provide micro and small business entities with the possibility of having several financial sanctions waived.

Specifically, interest reflected in the taxpayer’s personal account as of January 1, 2026, as well as interest accrued on the amount of arrears from January 1, 2026, until the date of its actual payment, may be written off. Furthermore, fines for tax offenses recorded in the personal account as of the specified date are subject to write-off for those types of taxes and payments where the arrears have been settled. The legislation also provides for the possibility of writing off interest and fines in the event of early fulfillment (before April 1, 2026) of a tax obligation for which the payment deadline, as of January 1, 2026, had been modified in accordance with tax legislation or legislation on rehabilitation and bankruptcy. Additionally, fines for turnovers conducted before January 1, 2026, during a period of non-registration for Value-Added Tax (VAT), may also be written off [8].

It should be emphasized that partial repayment of debt or the intention to compensate for the damage caused in the future is not considered by legislation as a sufficient ground for exemption from criminal liability. Such a requirement often creates difficulties for individuals who do not have the capacity to pay the entire amount of the debt in a single lump sum, especially when significant financial violations are involved [9].

An exception is an act committed by a criminal group (Part 3 of Article 245 of the CC RK—where exemption from liability does not apply). This narrows the possibilities for applying special exemption mechanisms in cases involving organized forms of crime.

In practice, difficulties frequently arise in determining the moment of completion for these specific offenses. This is due to the fact that the deadlines for filing a tax return and the deadlines for paying tax obligations may differ. In accordance with law enforcement practice, the moment of completion of a criminal offense provided for in Articles 244 and 245 of the CC RK is defined as the day following the last tax payment deadline established by tax legislation. This situation requires a precise determination of time boundaries and frequently becomes a subject of dispute during judicial proceedings.

Back in 2010, we already pointed out that legal literature discussed the contradiction between the provisions of the General Part of the CC RK (for example, Article 65) and the notes to the articles of the Special Part providing for special exemption. The question arises whether the conditions established in the General Part (for example, committing a crime for the first time, voluntary surrender, assistance in solving the crime) must be applied when using special notes. Some researchers believe that special exemption is independent and does not require compliance with the conditions of the General Part, while others contend that these conditions must be supplemented by the provisions of the notes [10]. In principle, a final conclusion on these issues has not yet been reached.

In practice, difficulties also arise due to the need to documentarily confirm the fact of full restitution of the damage caused. Especially in the process of complex financial schemes or when the necessary documents are missing, it is naturally difficult to obtain such evidence.

Furthermore, it is necessary to strictly observe procedural requirements, which, for example, firstly, are related to the norms of tax legislation in force at the time the criminal offense was committed, rather than at the time the amendments were adopted. And secondly, they are related to the deadlines for filing a tax return and paying taxes and other mandatory payments to the budget, as well as the period during which the person evaded the fulfillment of tax obligations.

In the absence of the specified information, the court at the preliminary hearing stage or during the main trial may recognize such circumstances as substantial violations of criminal procedural legislation that prevent the consideration of the case on its merits. In this case, the criminal case is subject to return to the prosecutor in accordance with Article 323 of the CPC RK [9].

In addition to the requirements for the indictment, there are other procedural risks that can influence the outcome of the case:

- Inadmissibility of evidence. If evidence is obtained in violation of the requirements of the CPC RK (for example, through the use of violence, threats, or without respecting the rights of the suspect), it may be declared inadmissible. This deprives the parties of the opportunity to use such evidence in court;
- Violations in the collection and storage of evidence. Non-compliance with the rules for drafting protocols, improper storage of physical evidence, or the absence of photo and video recording can lead to the loss of the evidentiary base. For example, if the chain of custody is broken, the court may doubt the authenticity of the evidence;
- Errors in the qualification of the act. Specifically, if the indictment does not specify the particular article, part, and paragraph of the Criminal Code under which the person is being charged, this may serve as grounds for returning the criminal case to the prosecutor;
- Insufficiency of the evidentiary base. If the submitted materials do not confirm the circumstances subject to proof in a criminal case in accordance with Article 113 of the CPC RK, such evidence is recognized as insufficient for rendering a reasoned decision. In such situations, the court is obliged to be guided by the principle of the presumption of innocence and render an acquittal.
- In this case, to minimize risks, we consider it necessary:
  - to carefully record all financial transactions and preserve primary documents;
  - when compensating for damages, to formalize transactions officially (for example, through deeds of assignment or harm compensation agreements);
  - during the investigation of tax offenses, to involve experts for the analysis of financial and economic activities and the determination of the amount of damage;
  - to comply with procedural norms during the collection and documentation of evidence to avoid it being declared inadmissible;
  - to monitor the completeness and accuracy of the indictment, paying attention to compliance with legislative norms, deadlines, and other key details [11].

The Constitutional Court of the Republic of Kazakhstan, in its Regulatory Resolution No. 14-NP dated May 18, 2023, examined an issue related to the application of Article 197 of the CC RK. The Constitutional Court pointed out that the absence of a clear definition of the list of such documents could lead to their broad interpretation by legal practitioners and, as a result, create a risk of violating the constitutional rights and freedoms of citizens [12].

Certain problems were also identified in the application of Article 214 of the CC RK. In particular, a lack of consistency was noted between the measures of liability and the norms of legislation across various branches of law. Furthermore, the disposition of the article contained several alternative forms of unlawful behavior, which complicated its practical application. As a result, this norm was divided into independent articles: Article 214-1 of the CC RK (illegal banking and microfinance activity) and Article 214-2 of the CC RK (illegal debt collection activity).

It was also established that certain provisions of the legislation could place different categories of persons in an unequal position. For example, the note to Article 214 of the CC RK provided for the possibility of exemption from criminal liability upon voluntary restitution of damage; however, it applied only to cases involving large-scale damage. At the same time, similar provisions did not apply to situations involving the

generation of large-scale income or the sale of excisable goods, which raised questions regarding compliance with the principle of equality.

The recommendations of the Constitutional Court in such cases often include the necessity of refining legislation: clarifying concepts, establishing clear criteria, harmonizing norms with each other and with other branches of law, as well as improving law enforcement practice. For example, in Regulatory Resolution No. 72-NP dated June 25, 2025, the Court recommended that the Government consider the issue of further improving criminal legislation, and that the Supreme Court summarize judicial practice for a clear distinction between the activities of commercial organizations and criminal groups [13].

According to the notes to Articles 214–214-2 of the CC RK, a person who has committed the corresponding act for the first time may be exempted from criminal liability on the condition of voluntary restitution of large-scale damage caused to a citizen, an organization, or the state. However, in practice, this norm is applied quite rarely. This is due to the fact that criminal prosecution authorities often qualify a person's actions based on the generation of income rather than the infliction of damage, which significantly complicates the use of this ground for exemption from liability.

This situation is explained by the fact that the dispositions of the specified articles provide for several alternative forms of criminal behavior. These include the infliction of large-scale damage to a citizen, an organization, or the state, the generation of large-scale income, as well as the production, storage, transportation, or sale of excisable goods in significant quantities (Article 214 of the CC RK).

The Constitutional Court of the Republic of Kazakhstan clarified that the note to Article 214 of the CC RK is applied only in cases where the committed act has resulted in large-scale damage and this damage was voluntarily restored before the court rendered its verdict. At the same time, the specified note does not extend to situations involving the generation of large-scale income or the sale of excisable goods, even if the crime was committed for the first time. The legislator considers such acts to be socially dangerous regardless of the presence of material consequences in the form of damage [14].

Thus, if the investigation establishes the generation of income rather than the infliction of damage, the grounds for applying the note are absent. This is precisely the reason why, in practice, exemption from liability under the note occurs rarely.

So, in 2023, the Constitutional Court of the Republic of Kazakhstan considered the appeal of a citizen convicted of illegal cryptocurrency exchange transactions. The applicant challenged the constitutionality of the note to Article 214 of the Criminal Code of the Republic of Kazakhstan, believing that its provisions do not apply to individuals whose actions are related to the generation of large-scale income but did not result in damage. According to the applicant, this leads to an unequal position for such individuals compared to those who caused damage and subsequently compensated for it.

Following the review, the Constitutional Court found the contested note to be consistent with the Constitution of the Republic of Kazakhstan. However, it was noted that the scope and nature of liability should be determined taking into account the degree of public danger of a particular offense. Furthermore, the Court recommended that the Government consider amending and supplementing the Criminal Code of the Republic of Kazakhstan and other regulatory legal acts in order to eliminate the identified deficiencies, in particular those related to the structure of the provision of Article 214 of the Criminal Code of the Republic of Kazakhstan [15].

Therefore, although the note to Article 214 of the Criminal Code of the Republic of Kazakhstan provides for the possibility of exemption from liability; its application in practice is limited by the specifics of the qualification of acts and the requirements of the law.

### *Conclusions*

The study of the theoretical foundations and law enforcement practice regarding exemption from criminal liability for economic crimes in the Republic of Kazakhstan allows for the formulation of the following provisions:

- Priority of Restorative Justice: in line with the policy of humanizing criminal legislation anchored in the Addresses of the President of the Republic of Kazakhstan, the institute of special exemption from liability should serve as a primary tool for balancing the protection of public interests with the stimulation of positive post-criminal behavior among business entities.

- Elimination of Legislative Conflicts: a contradiction has been identified between the General Part of the Criminal Code (Article 65) and the special notes of the Special Part regarding the mandatory nature of certain conditions (e.g., voluntary surrender, assistance in solving the crime). It is necessary to legislatively

establish the autonomy of special types of exemption, thereby minimizing the discretionary powers of law enforcement authorities.

- Refinement of the Conceptual Framework: normative clarification is required for the concepts of a “first-time offense” and “voluntary restitution of damages”. The latter must imperatively include not only the principal debt (arrears) but also accrued penalties and fines, supported by documentary evidence within strictly defined legal timeframes.

- Reforming the Disposition of Article 214 of the Criminal Code: the study justifies the need to revise the conditions for exemption in cases involving “large-scale income generation”. The current restriction, which allows the application of the special note only in cases of “causing damage”, creates legal inequality and hinders the effective use of restorative mechanisms in cases of illegal entrepreneurship and asset operations (including cryptocurrencies).

- Minimization of Procedural Risks: a systematic analysis of practice demonstrates that a lack of uniformity in determining the time of completion for tax crimes and the procedure for recording restitution leads to the return of cases to the prosecutor (Article 323 of the Criminal Procedure Code). The proposed solution involves developing clear interagency regulations and the systematization of judicial practice by the Supreme Court.

The proposed classification of exemption conditions based on industry specifics (tax, banking, and customs sectors) will harmonize criminal law with regulatory legislation, ensuring the stability of economic activity and the predictability of legal consequences for the business community.

## References

- 1 Послание Главы государства Касым-Жомарта Токаева народу Казахстана «Казахстан в новой реальности: время действий» от 1 сентября 2020 г. — [Электронный ресурс]. — Режим доступа: [https://www.akorda.kz/ru/addresses/addresses\\_of\\_president/poslanie-glavy-gosudarstva-kasym-zhomarta-tokaeva-narodu-kazahstana-1-sentyabrya-2020-g](https://www.akorda.kz/ru/addresses/addresses_of_president/poslanie-glavy-gosudarstva-kasym-zhomarta-tokaeva-narodu-kazahstana-1-sentyabrya-2020-g)
- 2 Уголовный кодекс Республики Казахстан от 3 июля 2014 года № 226-V (с изменениями и дополнениями по состоянию на 08.03.2026 г. — [Электронный ресурс]. — Режим доступа: [https://prg.kz/document/?doc\\_id=31575252&pos=256;315&doc\\_id2=31575252&pos2=3656;300](https://prg.kz/document/?doc_id=31575252&pos=256;315&doc_id2=31575252&pos2=3656;300)
- 3 Жижис С.А. Деятельное раскаяние: проблемы реализации / С.А. Жижис // Бюллетень Академии правоохранительных органов. — 2024. — № 1 (31). — С. 93–99.
- 4 Назмышев Р.А. Иррациональность законодательного регулирования обстоятельств, освобождающих от уголовной ответственности [Электронный ресурс] / Р.А. Назмышев. — 2019. — Режим доступа: [https://prg.kz/document/?doc\\_id=37408261](https://prg.kz/document/?doc_id=37408261)
- 5 Тойгонбаев Д.У. Защита добросовестных налогоплательщиков при квалификации «фиктивных операций» и оспаривании сделок налоговыми органами: от исковой модели к административной [Электронный ресурс] / Д.У. Тойгонбаев, А.Т. Кежебаева, А.К. Утарбаев. — 2026. — Режим доступа: [https://prg.kz/document/?doc\\_id=34615989](https://prg.kz/document/?doc_id=34615989)
- 6 Как разницей в судебной практике по налоговым спорам бьет по инвестиционному климату Казахстана. — [Электронный ресурс]. — Режим доступа: <https://tks.law/ru/publications/kak-raznoboym-v-sudebnoy-praktike-po-nalogoovym-sporam-b-et-po-investklimatu-kazahstana>
- 7 О налогах и других обязательных платежах в бюджет (Налоговый кодекс): Кодекс Республики Казахстан от 25 декабря 2017 года № 120-VI ЗРК. — [Электронный ресурс]. — Режим доступа: <https://adilet.zan.kz/rus/docs/K2500000214>
- 8 Об утверждении Правил списания суммы пеней и штрафов (Приказ 13): Приказ Министра финансов Республики Казахстан от 13 февраля 2026 года № 13. — [Электронный ресурс]. — Режим доступа: <https://cdb.kz/sistema/pravovaya-baza/ob-utverzhdenii-pravil-spisaniya-summy-peney-i-shtrafov-prikaz-13/>
- 9 Нормативное постановление Верховного Суда Республики Казахстан «О некоторых вопросах применения судами законодательства по делам об уголовных правонарушениях в сфере экономической деятельности» от 24 января 2020 года № 3. — [Электронный ресурс]. — Режим доступа: <https://adilet.zan.kz/rus/docs/P2000000003S>
- 10 Ахметова А.К. Некоторые правовые вопросы специального освобождения от уголовной ответственности / А.К. Ахметова // Вестник Карагандинского университета. Серия «Право». — 2010. — № 3 (59). — С. 136–141.
- 11 Дюсембеков Д.М. Доказательства и процессуальные нарушения органов следствия: современные тенденции и рекомендации судебной практике (Адвокат Алматинской городской коллегии адвокатов, Партнер АК «Назханов и партнеры» [Электронный ресурс] / Д.М. Дюсембеков. — 2025. — Режим доступа: [https://prg.kz/document/?doc\\_id=38758009&pos=7;179](https://prg.kz/document/?doc_id=38758009&pos=7;179)
- 12 Нормативное постановление Конституционного Суда Республики Казахстан от 18 мая 2023 года № 14-НП «О рассмотрении на соответствие Конституции Республики Казахстан статьи 197 Уголовного кодекса Республики Казахстан от 3 июля 2014 года». — [Электронный ресурс]. — Режим доступа: [https://prg.kz/document/?doc\\_id=34647513](https://prg.kz/document/?doc_id=34647513)
- 13 Нормативное постановление Конституционного Суда Республики Казахстан от 25 июня 2025 года № 72-НП «О рассмотрении на соответствие Конституции Республики Казахстан» части третьей статьи 245 в отношении слов «преступной

группой» и статьи 262 Уголовного кодекса Республики Казахстан от 3 июля 2014 года, пунктов 11 и 13 нормативного постановления Верховного Суда Республики Казахстан от 21 июня 2001 года № 2 «О некоторых вопросах применения судами законодательства об ответственности за бандитизм и другие уголовные правонарушения, совершенные в соучастии». — [Электронный ресурс]. — Режим доступа: [https://prg.kz/Document/?doc\\_id=35319130](https://prg.kz/Document/?doc_id=35319130)

14 Размер ответственности зависит от степени общественной опасности конкретного правонарушения — КС разъяснил норму УК. — [Электронный ресурс]. — Режим доступа: <https://www.gov.kz/memleket/entities/ksrk/press/news/details/629961?lang=ru>

15 Нормативное постановление Конституционного Суда Республики Казахстан от 3 октября 2023 года № 31-НП «О рассмотрении на соответствие Конституции Республики Казахстан примечания статьи 214 Уголовного кодекса Республики Казахстан от 3 июля 2014 года». — [Электронный ресурс]. — Режим доступа: [https://prg.kz/document/?doc\\_id=37670819&pos=8](https://prg.kz/document/?doc_id=37670819&pos=8); 268

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## **Экономикалық қызмет саласындағы қылмыстар үшін қылмыстық жауаптылықтан босатудың арнайы түрлері**

Зерттеудің мақсаты — экономикалық қызмет саласында жасалатын қылмыстар бойынша қылмыстық жауаптылықтан босатудың арнайы түрлерін қарастыру және олардың қолданылу ерекшеліктеріне құқықтық талдау жүргізу. Осы мақсатқа жету үшін ғылыми танымның талдау мен синтез, модельдеу мен болжау, салыстырмалы-құқықтық және формальды-логикалық әдістері, сондай-ақ нақты-тарихи тәсіл мен басқа да жалпы ғылыми және арнайы әдістер қолданылды. Зерттеудің эмпирикалық базасы ретінде Қазақстан Республикасының қылмыстық заңнамасы, Қазақстан Республикасы Жоғарғы Соты мен Конституциялық Сотының нормативтік қаулылары, сондай-ақ өзге де нормативтік-құқықтық актілер пайдаланылды. Зерттеу нәтижесінде заңнамалық олқылықтар, құқық қолдану тәжірибесіндегі қиындықтар және құқықтық нормалардың бірімәнді еместігіне байланысты бірқатар мәселелер анықталды. Осыған байланысты авторлар келесі негізгі қорытындыларға келді: келтірілген залалды өтеу мәселелеріне қатысты, «алғаш рет жасалған қылмыс» ұғымын нақтылауға, жекелеген қылмыс құрамдары бойынша жауаптылықтан босату шарттарын жетілдіруге, кінәлінің жеке басын және істің мән-жайларын ескеретін қосымша критерийлер енгізуге, құқық қорғау органдары мен соттар үшін іс-әрекет алгоритмін әзірлеуге, сондай-ақ Қазақстан Республикасы Қылмыстық кодексіндегі жалпы және арнайы нормалар арасындағы қайшылықтарды жоюға бағытталған ұсыныстар әзірлеу қажет.

*Кілт сөздер:* қылмыстық жауаптылық, жауаптылықтан босату, босатудың арнайы негіздемелері, экономикалық қылмыстар, қылмыстық құқық бұзушылықтар, залал, табыс, салық салу.

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## **Специальные виды освобождения от уголовной ответственности за преступления в сфере экономической деятельности**

Цель исследования заключается в рассмотрении и правовом анализе особенностей применения специальных видов освобождения от уголовной ответственности за преступления, совершаемые в сфере экономической деятельности. Для достижения поставленной цели были использованы методы научного познания, такие как анализ и синтез, моделирование и прогнозирование, сравнительно-правовой и формально-логический методы, а также конкретно-исторический подход и другие общенаучные и специальные методы. В качестве эмпирической базы исследования использованы нормы уголовного законодательства Республики Казахстан, нормативные постановления Верховного Суда и Конституционного Суда Республики Казахстан, а также иные нормативно-правовые акты. В результате показан ряд проблем, связанных с законодательными пробелами, сложностями правоприменения и неоднозначностью правовых норм. Исследование предлагает пересмотр нескольких ключевых норм, связанных с возмещением ущерба, понятием «впервые совершенное преступление», условиями освобождения от уголовной ответственности для отдельных составов преступлений, дополнительными критериями, учитывающими личность виновного и обстоятельства дела, с алгоритмом действий для правоохранительных органов и судов, с противоречием между общей и специальной нормами Уголовного кодекса Республики Казахстан.

*Ключевые слова:* уголовная ответственность, освобождение от ответственности, специальные основания освобождения, экономические преступления, уголовные правонарушения, ущерб, доход, налогообложение.

## References

- 1 Poslanie Glavy gosudarstva Kasym-Zhomarta Tokaeva narodu Kazakhstana «Kazakhstan v novoi realnosti: vremia deistvii» ot 1 sentiabria 2020 g. [Address of the Head of State Kassym-Jomart Tokayev to the people of Kazakhstan “Kazakhstan in the New Reality: Time for Action” dated September 1, 2020]. *akorda.kz*. Retrieved from [https://www.akorda.kz/ru/addresses/addresses\\_of\\_president/poslanie-glavy-gosudarstva-kasym-zhomarta-tokaeva-narodu-kazahstana-1-s-entyabrya-2020-g](https://www.akorda.kz/ru/addresses/addresses_of_president/poslanie-glavy-gosudarstva-kasym-zhomarta-tokaeva-narodu-kazahstana-1-s-entyabrya-2020-g) [in Russian].
- 2 Ugolovnyi kodeks Respubliki Kazakhstan ot 3 iiulia 2014 goda № 226-V (s izmeneniami i dopolneniami po sostoiianiu na 08.03.2026 g.) [Criminal Code of the Republic of Kazakhstan dated July 3, 2014, No. 226-V (with amendments and additions as of March 8, 2026)]. *prg.kz*. Retrieved from [https://prg.kz/document/?doc\\_id=31575252&pos=256;315&doc\\_id2=31575252&pos2=3656;300](https://prg.kz/document/?doc_id=31575252&pos=256;315&doc_id2=31575252&pos2=3656;300) [in Russian].
- 3 Zhizhis, S.A. (2024). Deiatelnoe raskaianie: problemy realizatsii [Active repentance: problems of implementation]. *Biulleten Akademii pravookhranitelnykh organov — Bulletin of the Academy of Law Enforcement Agencies*, 1 (31), 93–99 [in Russian].
- 4 Nazmyshev, R.A. (2019). Irratsionalnost zakonodatelnogo regulirovaniia obstoiatelstv, osvobodzhaiushchikh ot ugolovnoi otvetstvennosti [Irrationality of legislative regulation of circumstances exempting from criminal liability]. *prg.kz*. Retrieved from [https://prg.kz/document/?doc\\_id=37408261](https://prg.kz/document/?doc_id=37408261) [in Russian].
- 5 Toigonbaev, D.U., Kenzhebaeva, A.T., & Utarbaev, A.K. (2026). Zashchita dobrosovestnykh nalogopatelshchikov pri kvalifikatsii «fiktivnykh operatsii» i osparivanii sdelok nalogovymi organami: ot iskovoi modeli k administrativnoi [Protection of bona fide taxpayers in the classification of “fictitious transactions” and challenging transactions by tax authorities: from the claim model to the administrative one]. *prg.kz*. Retrieved from [https://prg.kz/document/?doc\\_id=34615989](https://prg.kz/document/?doc_id=34615989) [in Russian].
- 6 Kak raznoboit v sudebnoi praktike po nalogovym sporam bet po investklimatu Kazakhstana [How inconsistency in judicial practice on tax disputes affects the investment climate of Kazakhstan]. *tki.law*. Retrieved from <https://tki.law/ru/publications/kak-raznoboit-v-sudebnoy-praktike-po-nalogovym-sporam-b-et-po-investklimatu-kazahstana> [in Russian].
- 7 O nalogakh i drugih obiazatelnykh platezhakh v biudzhete (Nalogovyi kodeks): Kodeks Respubliki Kazakhstan ot 25 dekabria 2017 goda № 120-VI ZRK [On taxes and other mandatory payments to the budget (Tax Code): Code of the Republic of Kazakhstan dated December 25, 2017, No. 120-VI ZRK]. *adilet.zan.kz*. Retrieved from <https://adilet.zan.kz/rus/docs/K2500000214> [in Russian].
- 8 Ob utverzhdenii Pravil spisaniia summy penei i shtrafov (Prikaz 13): Prikaz Ministra finansov Respubliki Kazakhstan ot 13 fevralia 2026 goda № 13 [On approval of the Rules for writing off penalties and fines (Order 13): Order of the Minister of Finance of the Republic of Kazakhstan dated February 13, 2026, No. 13]. *cdb.kz*. Retrieved from <https://cdb.kz/sistema/pravovaya-baza/ob-utverzhdenii-pravil-spisaniya-summy-peney-i-shtrafov-prikaz-13/> [in Russian].
- 9 Normativnoe postanovlenie Verkhovnogo Suda Respubliki Kazakhstan «O nekotorykh voprosakh primeneniia sudami zakonodatelstva po delam ob ugolovnykh pravonarusheniiax v sfere ekonomicheskoi deiatelnosti» ot 24 yanvaria 2020 goda № 3 [Normative Resolution of the Supreme Court of the Republic of Kazakhstan “On Certain Issues of the Application of Legislation by Courts in Cases of Criminal Offenses in the Sphere of Economic Activity” dated January 24, 2020, No. 3]. *adilet.zan.kz*. Retrieved from <https://adilet.zan.kz/rus/docs/P200000003S> [in Russian].
- 10 Akhmetova, A.K. (2010). Nekotorye pravovye voprosy spetsialnogo osvobodzheniia ot ugolovnoi otvetstvennosti [Certain Legal Issues of Special Exemption from Criminal Liability]. *Vestnik Karagandinskogo universiteta. Seriya «Pravo» — Bulletin of Karaganda University. Series “Law”*, 3 (59), 136–141 [in Russian].
- 11 Diusembekov, D.M. (2025). Dokazatelstva i protsessualnye narusheniia organov sledstviia: sovremennye tendentsii i rekomendatsii sudebnoi praktike (Advokat Almatinskoi gorodskoi kollegii advokатов, Partner AK «Nazkhanov i partnery») [Evidence and procedural violations of investigative bodies: current trends and recommendations for judicial practice (Lawyer of the Almaty City Bar Association, Partner of the Nazkhanov & Partners Law Firm)]. *prg.kz*. Retrieved from [https://prg.kz/document/?doc\\_id=38758009&pos=7;179](https://prg.kz/document/?doc_id=38758009&pos=7;179) [in Russian].
- 12 Normativnoe postanovlenie Konstitutsionnogo Suda Respubliki Kazakhstan ot 18 maia 2023 goda № 14-NP «O rassmotrenii na sootvetstvie Konstitutsii Respubliki Kazakhstan stati 197 Ugolovnogo kodeksa Respubliki Kazakhstan ot 3 iiulia 2014 goda» [Regulatory Resolution of the Constitutional Court of the Republic of Kazakhstan dated May 18, 2023 No. 14-NP “On reviewing Article 197 of the Criminal Code of the Republic of Kazakhstan dated July 3, 2014 for compliance with the Constitution of the Republic of Kazakhstan”]. *prg.kz*. Retrieved from [https://prg.kz/document/?doc\\_id=34647513](https://prg.kz/document/?doc_id=34647513) [in Russian].
- 13 Normativnoe postanovlenie Konstitutsionnogo Suda Respubliki Kazakhstan ot 25 iyunia 2025 goda № 72-NP «O rassmotrenii na sootvetstvie Konstitutsii Respubliki Kazakhstan chasti tretei stati 245 v otnoshenii slov «prestupnoi gruppoi» i stati 262 Ugolovnogo kodeksa Respubliki Kazakhstan ot 3 iiulia 2014 goda, punktov 11 i 13 normativnogo postanovleniia Verkhovnogo Suda Respubliki Kazakhstan ot 21 iyunia 2001 goda № 2 «O nekotorykh voprosakh primeneniia sudami zakonodatelstva ob otvetstvennosti za banditizm i drugie ugolovnye pravonarusheniia, sovershennye v souchastii» [Regulatory Resolution of the Constitutional Court of the Republic of Kazakhstan dated June 25, 2025 No. 72-NP “On reviewing Part Three for compliance with the Constitution of the Republic of Kazakhstan” Article 245 in relation to the words “criminal group” and Article 262 of the Criminal Code of the Republic of Kazakhstan dated July 3, 2014, paragraphs 11 and 13 of the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated June 21, 2001 No. 2 “On Certain Issues of the Application by Courts of Legislation on Liability for Banditry and Other Criminal Offenses Committed in Complicity”]. *prg.kz*. Retrieved from [https://prg.kz/Document/?doc\\_id=35319130](https://prg.kz/Document/?doc_id=35319130) [in Russian].
- 14 Razmer otvetstvennosti zavisit ot stepeni obshchestvennoi opasnosti konkretnogo pravonarusheniia — KS raziasnil normu UK [The amount of liability depends on the degree of public danger of a particular offense — the CC explained the norm of the CC]. *gov.kz*. Retrieved from <https://www.gov.kz/memleket/entities/ksrk/press/news/details/629961?lang=ru> [in Russian].

15 Normativnoe postanovlenie Konstitutsionnogo Suda Respubliki Kazakhstan ot 3 oktiabria 2023 goda № 31-NP «O rassmotrenii na sootvetstvie Konstitutsii Respubliki Kazakhstan primechaniia stati 214 Ugolovnogo kodeksa Respubliki Kazakhstan ot 3 iulia 2014 goda» [Regulatory resolution of the Constitutional Court of the Republic of Kazakhstan dated October 3, 2023 No. 31-NP “On consideration of the note to Article 214 of the Criminal Code of the Republic of Kazakhstan dated July 3, 2014 for compliance with the Constitution of the Republic of Kazakhstan”]. *prg.kz*. Retrieved from [https://prg.kz/document/?doc\\_id=37670819&pos=8:268](https://prg.kz/document/?doc_id=37670819&pos=8:268) [in Russian].

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