



Groupe d'Etats contre la corruption
Group of States against corruption



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Third Evaluation Round

Evaluation Report on Kazakhstan on Incriminations

(Theme I)

Adopted by GRECO
at its 99th Plenary Meeting
(Strasbourg, 17-19 March 2025)

I. INTRODUCTION

1. Kazakhstan joined GRECO in 2020. GRECO adopted the Joint First and Second Round Evaluation Report ([Greco Eval I/II Rep \(2021\)1](#)) in respect of Kazakhstan at its 90th Plenary Meeting (25 March 2022). The aforementioned evaluation report as well as its corresponding compliance report are both available on GRECO's homepage (<http://www.coe.int/greco>).
2. GRECO's current Third Evaluation Round (launched on 1 January 2007) deals with the following themes:
 - Theme I – Incriminations: Articles 1a and 1b, 2-12, 15-17, 19 paragraph 1 of the Criminal Law Convention on Corruption (ETS 173), Articles 1-6 of its Additional Protocol (ETS 191) and Guiding Principle 2 (criminalisation of corruption).
 - Theme II – Transparency of party funding: Articles 8, 11, 12, 13b, 14 and 16 of Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns, and – more generally – Guiding Principle 15 (financing of political parties and election campaigns).
3. The GRECO Evaluation Team for Theme I (hereafter referred to as the "GET"), which carried out an on-site visit to Kazakhstan from 11 to 13 September 2024, was composed of Mr Dražen JELENIC, Deputy State Attorney General (Croatia) and Ms Anca JURMA, Counsellor of the Chief Prosecutor, National Anticorruption Directorate, Prosecutor's Office attached to the High Court of Cassation and Justice (Romania). The GET was supported by Ms Laura SANZ-LEVIA, Deputy Executive Secretary and Ms Sophie MEUDAL-LEENDERS, Senior Legal Adviser from GRECO's Secretariat. Prior to the visit the GET was provided with a comprehensive reply to the Evaluation questionnaire (document Greco Eval III (2024) 1E, Theme I) as well as copies of relevant legislation.
4. The GET met with officials from the following governmental organisations: Anti-corruption Agency, Judicial Administration, High Judicial Council, Prosecutor General's Office, Financial Monitoring Agency, National Security Committee, Ministry of Justice. The GET also met with lawyers, NGOs, journalists, and academics (Nazarbayev University).
5. The present report on Theme I of GRECO's Third Evaluation Round on Incriminations was prepared on the basis of the replies to the questionnaire and the information provided during the on-site visit. The main objective of the report is to evaluate the measures adopted by the authorities of Kazakhstan in order to comply with the requirements deriving from the provisions indicated in paragraph 2. The report contains a description of the situation, followed by a critical analysis. The conclusions include a list of recommendations adopted by GRECO and addressed to Kazakhstan in order to improve its level of compliance with the provisions under consideration.
6. The report on Theme II – Transparency of party funding, is set out in Greco Eval III Rep (2024) 1E-Theme II.

II. INCRIMINATIONS

Description of the situation

7. Kazakhstan has not signed or ratified the Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol (ETS 191).
8. The Criminal Code of the Republic of Kazakhstan (CC) came into force on 1 January 2015.

Bribery of domestic public officials (Articles 1-3 and 19 of ETS 173)

9. Article 366 CC establishes the offence of *passive bribery* and article 367 CC that of *active bribery*¹ of public officials with certain responsibilities. Bribery of other public officials is dealt with in article 247 CC on *obtention of illegal remuneration*. This article, unlike articles 366 and 367, is not included in the chapter of the CC on corruption. All three articles provide that the sanctions may be increased in aggravated cases. The articles also contain “notes” which specify the conditions under which the bribe giver or the bribe taker are released from criminal liability. These notes are mandatorily applied if the conditions are met. In addition, when it comes to formulating their observations on the subject, the authorities have referred to Normative Resolution No. 8 of the Supreme Court of 27 November 2015 “On the practice of consideration of certain corruption crimes”. Normative resolutions are interpretative decisions explaining certain provisions of the CC, which are adopted by the Supreme Court after consultation with relevant stakeholders, such as lawyers and academics. These resolutions are binding on other courts (article 4.1 of the Constitution).

Article 366 CC: Acceptance of a bribe

(1) Acceptance of a bribe in the form of money, securities, other property, right to property, property benefits for themselves or other persons, by a person authorised to perform state functions, or a person equated to him (her), or a person, holding a responsible public position, or an official, as well as an official of a foreign state or an international organisation, personally or through an intermediary, for the actions (omission) for the benefit of the briber or persons represented by him (her), if such actions (omission) are included in the official powers of this person, or it may promote to such actions (omission) by virtue of his (her) official position, as well as for general patronage or connivance, shall be punished by a fine in the amount of twenty to fifty fold the amount of the bribe or by imprisonment for up to five years, with confiscation of property, with lifelong deprivation of the right to hold certain positions or engage in certain activities.

(1-1) The same act, committed by an employee of a law enforcement agency or a person holding a responsible public position in a law enforcement agency, or a judge, shall be punishable by a fine in the amount of thirty to fifty fold the amount of the bribe, or imprisonment for up to six years, with confiscation of property, with lifelong deprivation of the right to hold certain positions or engage in certain activities.

(2) Acts provided for by parts one and 1-1 of this article, committed in a significant amount, as well as receiving a bribe for illegal actions (inaction) shall be punished by a fine in the amount of fifty to sixty times the amount of bribe or imprisonment for a term of three to seven years, with confiscation of property, with lifelong deprivation of the right to hold certain positions or engage in

¹ In addition, section 368 CC contains specific provisions on “mediation in bribery” which is defined as “contributing to reaching or performing an agreement between the bribe giver and the bribe taker”.

certain activities.

(3) The acts provided for by parts one, 1-1 or two of this article, if they are committed:

- 1) by extortion;
- 2) by a group of persons upon prior concertation;
- 3) on a large scale;
- 4) repeatedly, -

shall be punished by a fine in the amount from sixty to seventy times the amount of the bribe or by imprisonment for a term of seven to twelve years, with confiscation of property, with lifelong deprivation of the right to hold certain positions or engage in certain activities.

(4) The acts provided by the first, second or third parts of this Article, if they are committed by a criminal group, as well as on a special large scale, shall be punished by a fine in the amount of seventy to eighty times the amount of the bribe or imprisonment for a term of ten to fifteen years, with confiscation of property, with life deprivation of the right to hold certain positions or engage in certain activities.

Note: Obtaining a property or other property benefits for the first time as a gift, in the absence of prior agreement for the previously committed legal actions (omission) by a person, as specified in the first part of this Article, shall not be considered a crime by virtue of insignificance and shall be prosecuted in a disciplinary or administrative procedure, if the cost of the gift does not exceed two monthly calculation indices.

Article 367 CC: Giving a bribe

(1) Giving a bribe to a person authorised to perform state functions, or a person equated to him (her), or a person holding a responsible public position, or an official, as well as an official of a foreign state or an international organisation, personally or through an intermediary, is punishable by a fine in the amount of twenty to thirty times the amount of the bribe or imprisonment for up to five years, with confiscation of property, with lifelong deprivation of the right to hold certain positions or engage in certain activities.

(2) The same act, committed in a significant amount, is punishable by a fine in the amount of thirty to forty times the amount of the bribe or imprisonment for a term of three to seven years, with confiscation of property, with lifelong deprivation of the right to hold certain positions or engage in certain activities.

(3) The acts provided for by the first or second parts of this Article, if they are committed:

- 1) by a group of persons upon prior concertation;
- 2) on a large scale;
- 3) repeatedly, -

shall be punishable by a fine in the amount of forty to fifty times the amount of the bribe, or imprisonment for a term of seven to twelve years, with confiscation of property, with lifelong deprivation of the right to hold certain positions or engage in certain activities.

(4) The acts, provided by the first, second or third parts of this Article, if they are committed on a special large amount or by a criminal group, shall be punishable by a fine in the amount of fifty to sixty times the amount of the bribe, or imprisonment for a term of ten to fifteen years, with confiscation of property, with lifelong deprivation of the right to hold certain positions or engage in certain activities.

Note:

1. Transfer of a gift for the first time to the person specified in the first part of Article 366 of this Code, in the amount or the cost not exceeding two monthly calculation indices, shall not involve criminal responsibility for the legal actions (omission), previously committed by him (her), if the

actions (omission), committed by this person were not conditioned by a preliminary agreement.

2. A person who has given a bribe shall be released from criminal responsibility, if in relation to him (her), extortion of the bribe was committed by the person specified in first part of this Article 366 of this Code, or if this person voluntarily reported giving a bribe to law enforcement or the special state body on bribery.

Footnote. Article 367 as amended by the Law of the Republic of Kazakhstan dated 12.07.2018 No. 180-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 19.12.2020 No. 384-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 12.07.2023 No. 23-VIII (effective sixty calendar days after the date of its first official publication).

Article 247 CC: Obtention of illegal remuneration

(1) Illegal obtention of material remuneration, benefits or services of property nature for the performance of work or the rendering of services, including in a set of responsibilities, by an employee of a state body or a state organisation other than a person authorised to exercise state functions, or a person equated to him (her), as well as by an employee of a non-state organisation not exercising management functions shall be punished by a fine in the amount of up to 80 monthly calculation indices, corrective labours in the same amount, community services for a term of up to 80 hours or arrest for a term of up to 20 days.

(2) The same actions, committed repeatedly, shall be punished by a fine in the amount of up to 120 monthly calculation indices, corrective labours in the same amount, community services for a term of up to 120 hours or arrest for a term of up to 30 days.

(3) The actions provided for in parts one and two of this article, if related to the receipt of remuneration in large amounts or associated with extortion, shall be punished by a fine in the amount of up to 200 monthly calculation indices, corrective labours in the same amount, community services for a term of up to 600 hours, restriction of liberty for a term of up to 2 years, or deprivation of liberty for the same term, with deprivation of the right to hold certain positions or engage in certain activities for a term of up to 3 years.

Note: Obtention of material remuneration, benefits or services of a property nature by a person specified in the first part of this Article as a gift, in the absence of prior agreement for the previously performed work or services rendered within the scope of his (her) duties, shall not be considered a crime by virtue of insignificance and shall be prosecuted in a disciplinary or administrative procedure, if the cost of the gift does not exceed five monthly calculation indices.

10. In addition to the above-mentioned criminal offences, the Code of Administrative Offences (CAO) provides for administrative liability for corruption, in particular articles 676 CAO (provision of illegal benefits), 677 CAO (receipt of illegal benefits) and 678 CAO (provision of illegal benefits by legal entities). These offences are constituted when the provision or the receipt of illegal benefits "do not contain the signs of a criminally punishable act". According to the notes under articles 366 and 367 CC, the decisive criteria for the application of the provisions of the CAO are the value of the benefit, which must be below two monthly indices – about 15 EUR, the fact that it was given or received for the first time and the absence of a prior corruptive agreement. In this report reference is only made to corruption offences under criminal legislation, unless otherwise specified.

Elements of the offence

"Domestic public official"

11. Articles 366 and 367 CC use the terms "person holding a responsible public position", "official", including an official of a foreign state or an international organisation, "person authorised to perform public functions" or "person equated to him (her)". These terms are defined by article 3, paragraphs 9, 16, 26, 27 and 28 CC respectively. In addition, paragraph 3 of Normative Resolution No. 8 of the Supreme Court specifies the notion of officials of foreign states or international organisations in the context of Articles 366 and 367 CC.

Article 3 CC: Explanation of some concepts

9) representative of the government – a person in the public service, vested in the manner established by the law of the Republic of Kazakhstan with administrative powers in relation to persons who are not officially dependent on him, including an employee of a law enforcement or special government agency, a military police officer, a military serviceman, participating in maintaining public order;

16) a person holding a responsible public position - a person holding a position, which is established by the Constitution of the Republic of Kazakhstan, constitutional and other laws of the Republic of Kazakhstan for the direct performance of the functions of the state and the powers of state bodies, including a deputy of the Parliament of the Republic of Kazakhstan, a judge of the Constitutional Court of the Republic of Kazakhstan, a judge, the Commissioner for Human Rights in the Republic of Kazakhstan, as well as a person who, under the legislation of the Republic of Kazakhstan on state service, holds a political public position or an administrative public position of corps "A";

26) civil servant – a person, permanently, temporary or by special authority exercising functions of representative of authority or performing organisational/management or administrative-and-household functions in the state bodies, local government bodies, as well as in Armed Forces of the Republic of Kazakhstan, other military forces and military formations of the Republic of Kazakhstan;

27) a person authorised to perform state functions - a person who is in the state service, a deputy of maslikhat, a person temporarily performing the duties stipulated by the public position, before being appointed to state service, as well as a person temporarily appointed to a military position of a military serviceman under a contract of an officer or temporarily performing his duties;

28) a person equated to persons authorised to perform state functions - a person elected to local self-government bodies; a citizen registered as prescribed by the law of the Republic of Kazakhstan as a candidate for the President of the Republic of Kazakhstan, deputies of the Parliament of the Republic of Kazakhstan or maslikhats, akims of districts, cities of oblast subordination, cities of district subordination, towns, villages, rural districts, as well as members of an elective body of local self-government; a civil servant permanently or temporarily working in a local self-government body, whose salary is paid from the state budget of the Republic of Kazakhstan; a person performing managerial functions in a state organisation or a quasi-public sector entity, as well as a person authorised to make decisions on the organisation and conduct of procurement, including public procurement, or responsible for the selection and implementation of projects financed from the state budget and the National Fund of the Republic of Kazakhstan holding a position not lower than the

head of an independent structural unit in these organizations; employees of the National Bank of the Republic of Kazakhstan and its departments; employees of an authorised civil aviation organisation, acting in accordance with the legislation of the Republic of Kazakhstan on the use of the airspace of the Republic of Kazakhstan and aviation activities; employees of the authorised body for regulation, control and supervision of the financial market and financial organisations;

Paragraph 3 of Normative Resolution No. 8 of the Supreme Court

Officials of a foreign state or international organisation specified in Articles 366, 367 of the Criminal Code include persons recognised as such by international treaties of the Republic of Kazakhstan in the field of combating corruption.

An official of a foreign State is any appointed or elected person holding a position in a legislative, executive, administrative or judicial body of a foreign State and any person performing a public function for a foreign State, including a public agency or enterprise.

An international civil servant or any person authorised by such an organisation to act on its behalf shall be considered an official of an international organisation.

12. The definition of a domestic official in article 3 CC thus includes 1) individuals holding responsible government positions and persons holding a responsible public position in organs established by the Constitution or other laws to exercise state powers, which includes judges, the Prosecutor General and his/her deputies and ministers; 2) persons authorised to perform state functions, namely persons who are in the state service, deputies of maslikhats², persons temporarily performing public duties prior to their appointment in the state service; 3) persons equated to those authorised to perform state functions, which include individuals elected to local self-government bodies, candidates for the positions of President of the Republic, of member of Parliament, of deputies of maslikhats, akims³ of districts, cities, towns etc., and civil servants working permanently or temporarily for these bodies; and 4) officials, who are defined as persons permanently, temporarily or by special authority exercising functions of representative of authority, performing organisational/management or administrative/logistical functions in the state bodies and local government bodies. Other prosecutors and employees of the prosecution authorities are considered as law enforcement officers and are also covered by article 3 CC.
13. The bribery of civil servants or employees who do not exercise organisational, managerial, administrative or logistical functions is covered by article 247 CC, which uses the terms “employee of a state body or a state organisation other than a person authorised to exercise state functions, or a person equated to him (her)”. This provision applies to such employees whatever their employment regime.
14. Article 366, paragraph 1-1 CC furthermore qualifies the acceptance of a bribe by an “employee of a law enforcement agency or a person holding a responsible public position in a law enforcement agency, or a judge” as an aggravated case of bribery.

² According to the Joint First and Second Round Evaluation Report on Kazakhstan, maslikhats are representative bodies which operate at the regional level - the oblast level, the capital and cities of national importance (Almaty and Shymkent), as well as at the local level - cities of oblast significance and districts.

³ According to the Joint First and Second Round Evaluation Report on Kazakhstan, akims are representatives of the President and the government, appointed either by the President upon a proposal of the government, or by akims superior to them.

“Request or receipt, acceptance of an offer or promise” (passive bribery)

15. Article 366 CC on passive bribery uses the words “acceptance of a bribe” which, according to the authorities, cover the receipt of a bribe. The “request” for a bribe is mentioned only in the meaning of extortion (“requirement of transfer of another’s property or right to property or commission of other actions of property nature under the threat of” certain actions, as specified in article 194 CC) as an aggravating circumstance. The element of request of a bribe is foreseen by a draft law under consideration by the Majilis. The text of the draft provided to the GET after the on-site visit did not include the acceptance of an offer or promise of a bribe. Furthermore, Resolution No. 8 of the Supreme Court (paragraph 6) specifies that liability is incurred regardless of the moment when the official received the bribe, whether before or after the commission (omission) of the acts, as well as regardless of whether the bribe was predetermined in advance or whether any actions were performed in the interests of the bribe giver. The offences of active and passive bribery are constituted also when the conditions for receiving the bribe are not specifically stipulated, but the participants to the crime realise that the bribe is given to satisfy the interests of the bribe giver.
16. Article 247 CC applies to “illegal obtention of material remuneration, benefits of services of property nature”. The elements of request and acceptance of an offer or promise are not covered.

“Promising, offering or giving” (active bribery)

17. Article 367 CC uses the word “giving”. The draft law mentioned above paragraph foresees the incrimination of the offer or promise of a bribe.
18. Article 247 CC does not cover the active side of the offence.

“Any undue advantage”

19. Articles 366 and 367 CC employ the word “bribe”. Article 366, paragraph 1 specifies that the object of the bribe is “money, securities, other property, right to property or benefits of a property nature”. Immaterial advantages are thus not covered. The element “undue” is not explicitly transposed. The authorities indicated that in accordance with the explanations provided by Resolution No. 8 of the Supreme Court (paragraph 8), the object of the bribe includes the illegal provision of services of a property nature, including release from property obligations. By contrast, services, privileges and benefits that are not of a proprietary nature (e.g. positive coverage in the press, providing a prestigious job, etc.) cannot be recognised as a bribe.
20. Likewise, article 247 CC refers to material advantages and services of a property nature and does not cover immaterial benefits.
21. Moreover, all three articles contain a note exonerating the perpetrators from criminal responsibility for obtaining/giving a gift of low value for the first time. According to article 366, “obtaining a property or property benefits for the first time as a gift, in the absence of prior agreement for the previously committed actions (omission) [...] shall not be considered a crime and shall be prosecuted in a disciplinary or administrative procedure, if the cost of the gift does not exceed two monthly calculation indices⁴” (7 384 tenge – about EUR 15). The note in article 367 mirrors this provision by specifying that giving a gift for the first time in the amount or value not exceeding two monthly calculation indices, if the actions (inactions) committed by the

⁴ As of 1 January 2024, 1 monthly calculation index = 3 692 tenge, or about EUR 7.5.

recipient were not conditioned by prior agreement, does not entail criminal liability. Article 247 CC employs similar wording but raises the value of the gift to five monthly calculation indices (18 460 tenge – about EUR 35).

“Directly or indirectly”

22. Both provisions of the CC on active and passive bribery specify that the offence could be committed “personally or through an intermediary”. Article 247 CC does not contain this element.

“For himself or herself or for anyone else”

23. Article 366 CC on passive bribery specifies that the acceptance of a bribe may be for the official him/herself or for other persons. According to Supreme Court Resolution No. 8, paragraph 5, the advantage may be accepted by the official for him/herself, but also for other persons or organisations. Articles 367 and 247 CC remain silent on the provision of an advantage to a third party.

“To act or refrain from acting in the exercise of his or her functions”

24. Article 366 CC on passive bribery covers actions or inaction in favor of the bribe-giver or persons represented by him/her, “if such actions (inaction) are within the official powers” of the official, or if s/he, by virtue of his/her position, can facilitate such actions (inaction), as well as for general patronage or connivance. Supreme Court Resolution No. 8, paragraph 7 specifies that general patronage in service may manifest itself in the unjustified appointment of a subordinate, including in violation of the established procedure, to a higher position or in the granting of incentive payments, awards, etc. Connivance in service includes the consent of an official of a control body not to apply the measures of responsibility within his/her powers in case of the detection of a violation committed by the bribe-giver.
25. The commission of illegal actions (omission) by the official (article 366 paragraph 2 CC) constitutes an aggravating circumstance. In this regard, Supreme Court Resolution No. 8, paragraph 9 explains that this covers cases in which actions or omissions were committed by the official within his/her official powers, but in the absence of the grounds or conditions provided for by law for their performance – falsification of evidence in a criminal case, inclusion in documents of information that does not correspond to reality etc. Acts which lie outside of the official powers of the official, but that s/he nevertheless performs him/herself are not covered by article 366 CC.
26. Article 367 CC on active bribery does not contain the element of an act or an omission by the public official but only to the giving of a bribe to an official. Finally, article 247 CC requires the employee acting within the scope of his (her) duties. Therefore, it does not cover omission.

“Committed intentionally”

27. According to the authorities, all relevant offences can only be committed with intention.

Sanctions

28. Passive bribery offences are punishable by a fine or by imprisonment in incremental amounts and duration depending on the gravity of the case, with confiscation of property and deprivation for life of the right to occupy certain positions or engage in certain activities. Without aggravating

circumstances, the amount of the fine is 20 to 50 times the amount of the bribe, while imprisonment may be up to 5 years (article 366, paragraph 1 CC). The following paragraphs of article 366 provide for several degrees of aggravated sanctions. The most serious cases are receiving a bribe by a criminal group or on a particularly large scale, which are punishable by a fine in the amount of 70 to 80 times the amount of the bribe or 10 to 15 years' imprisonment, with deprivation of the right to occupy certain positions or engage in certain activities for life, and with confiscation of property.

29. Active bribery is punishable by a fine in the amount of 20 to 30 times the amount of the bribe or up to 2 years' imprisonment, with confiscation of property and lifelong deprivation of the right to occupy certain positions or engage in certain activities. Section 367 CC provides for several degrees of aggravated sanctions. The most serious cases are giving a bribe on a particularly large scale or by a criminal group, which are punishable by a fine in the amount of 50 to 60 times the amount of the bribe or 10 to 15 years' imprisonment, with confiscation of property and lifelong deprivation of the right to occupy certain positions or engage in certain activities.
30. Deprivation of the right to occupy certain positions and engage in certain activities is mandatory for corruption offences and consists of a lifetime ban on holding positions in the civil service, as judges, as well as positions in local self-government bodies, the authorised body for regulation, control and supervision of the financial market and financial organisations, state organisations and quasi-state sector entities (art. 50, paragraphs 2 and 3 CC). Paragraph 28 of Supreme Court Resolution No. 8 confirms this mandatory nature for corruption offences, regardless of whether the perpetrator already occupied one of these positions at the time of committing the offence.
31. Under article 247 CC, the obtention of illegal remuneration is punishable by a fine in the amount of up to 80 monthly calculation indices, corrective labours in the same amount, community services for a term of up to 80 hours or arrest for up to 20 days. More severe sanctions are provided for in aggravating circumstances, including arrest for up to 30 days and deprivation of liberty for a term of up to 2 years, with deprivation of the right to hold certain positions or engage in certain activities for a term of up to 3 years.
32. According to article 52 paragraph 3 CC, in determining the punishment, the court has to take account of the nature and the extent of social danger of the offence, of the personality of the perpetrator, his/her behaviour before and after committing the offence, of any mitigating or aggravating circumstances, as well as of the effect of the sanctions on the correction of the perpetrator and the living conditions of his/her dependent family members of other persons depending on him/her.
33. Similar sanctions are available for other comparable criminal offences such as fraud (article 190 CC), appropriation or embezzlement of property (article 189 CC), abuse of official authority (article 361 CC) or excess of powers or official authorities (article 362 CC).

Bribery of members of domestic public assemblies (Article 4 of ETS 173)

34. According to article 3, paragraph 16 CC, members of the Parliament of the Republic of Kazakhstan are among persons holding a responsible public position. Bribery of such persons is incriminated in the same manner as bribery of domestic public officials under articles 366 and 367 CC. The same goes for deputies of maslikhats, who are among the "persons equated to persons authorised to perform state functions" under article 3 paragraph 28 CC. The elements of the offence and the applicable sanctions detailed under bribery of domestic public officials also apply

to bribery of members of domestic public assemblies, as long as the amount of the bribe exceeds two monthly calculation indices.

Bribery of foreign public officials (Article 5 of ETS 173)

35. Bribery of foreign public officials is covered by articles 366 and 367 CC, as “officials of a foreign state” are expressly mentioned in these articles. Paragraph 3 of Supreme Court Resolution No. 8 specifies that officials of a foreign state include “persons recognised as such by international treaties of the Republic of Kazakhstan in the field of combating corruption. An official of a foreign State is any appointed or elected person holding a position in a legislative, executive, administrative or judicial body of a foreign State and any person performing a public function for a foreign State, including a public agency or enterprise.”
36. The elements of the criminal offences and the applicable sanctions under articles 366 and 367 CC detailed under bribery of domestic public officials also apply to bribery of foreign public officials, as long as the amount of the bribe exceeds two monthly calculation indices (7 384 tenge – about EUR 15). By contrast, article 247 CC on the obtention of illegal remuneration does not apply to foreign public officials below managerial level. There is no case law/court decision concerning bribery of foreign public officials.

Bribery of members of foreign public assemblies (Article 6 of ETS 173)

37. Bribery of members of foreign public assemblies is covered by the bribery provisions of the CC, as Paragraph 3 of Supreme Court Resolution No. 8 specifies that officials of a foreign state include “any appointed or elected person holding a position in a legislative, executive, administrative or judicial body of a foreign State”. The elements of the criminal offences and the applicable sanctions under articles 366 and 367 CC detailed under bribery of domestic public officials also apply to bribery of members of foreign public assemblies, as long as the amount of the bribe exceeds two monthly calculation indices (7 384 tenge – about EUR 15). There is no case law/court decision concerning bribery of members of foreign public assemblies.

Bribery in the private sector (Articles 7 and 8 of ETS 173)

38. Bribery in the private sector is criminalised by articles 253 and 247 CC, as well as in articles 366 and 367 CC, depending on the position of the organisational and legal form of the legal entity involved, as well as on the position of the individual working for that entity. Article 253 applies to persons exercising management functions in commercial and other organisations. As soon as the state holds any participation in a commercial organisation, whatever its amount, articles 366 and 367 apply to the persons of that organisation holding organisational/management or administrative/logistical functions. Finally, article 247 covers employees of the non-state sector as well as of the public sector.

Article 253 CC: Commercial bribery

(1) Illegal transfer of money, security or other property to a person exercising management functions in a commercial or other organisation, as well as the illegal provision of services of property nature for the use by him (her) of his (her) official position, as well as for general protection or connivance in the service in the interests of the person giving the bribe shall be punished by a fine in the amount of up to 5 000 monthly calculation indices or corrective labours

in the same amount, or community services for a term of up to 1 200 hours, or restriction of liberty for a term of up to 5 years, or deprivation of liberty for the same term.

(2) The same actions committed repeatedly or by a group of persons on previous concertation, or on a large extent shall be punished by a fine in the amount of 30 to 40 times the amount of the transferred money or cost of the transferred property, or deprivation of liberty for a term of 7 to 12 years with confiscation of property.

(3) The actions provided for in the first and second parts of this article, committed by a criminal group or in an especially large extent shall be punished by a fine in the amount of 40 to 50 times the amount of the transferred money or cost of the transferred property, or deprivation of liberty for a term of 10 to 15 years with confiscation of property.

(4) Illegal receipt of money, securities or other property by a person exercising management functions in a commercial or other organisation, as well as use of services of a property nature for the use of his (her) official position, as well as for the general protection or connivance in the service in the interests of the person giving the bribe shall be punished by a fine in the amount of up to 5 000 monthly calculation indices or corrective labours in the same amount, or community services for a term of up to 1 200 hours, or restriction of liberty for a term of up to 5 years, or deprivation of liberty for the same term, with confiscation of property, with deprivation of the right to hold certain positions or engage in certain activities for a term of up to 2 years.

(5) The actions provided for by the fourth part of this article, if:

- 1) committed by a group of persons on previous concertation;*
- 2) committed repeatedly;*
- 3) linked to extortion;*
- 4) on a large scale*

shall be punished by a fine in the amount of 60 to 70 times the amount of the transferred money or cost of the transferred property or by deprivation of liberty for a term of 7 to 12 years, with confiscation of property, with deprivation of the right to hold certain positions or engage in certain activities for a term of up to 3 years.

(6) The actions provided for by the fourth or fifth parts of this article, if committed by a criminal group or on an especially large scale shall be punished by a fine in the amount of 70 to 80 times the amount of the transferred money or cost of the transferred property or by deprivation of liberty for a term of 10 to 15 years, with confiscation of property, with deprivation of the right to hold certain positions or engage in certain activities for a term of up to 5 years.

Note:

- 1. A person who committed the actions provided for by the first or second parts of this article shall be released from criminal responsibility if he (she) was subject to an extortion or if he (she) voluntarily informed law enforcement or the special state body of the bribery.*
- 2. Transfer or receipt of property, rendering of services of a property nature or use of such services for the first time as a gift or compensation, in the absence of prior agreement for the previously committed legal actions shall not be considered a crime by virtue of insignificance and shall be prosecuted in a disciplinary or administrative procedure if the cost of the property or services does not exceed two monthly calculation indices.*

Elements of the offence

39. The elements already described under bribery of domestic public officials as regards articles 366, 367 and 247 apply accordingly to bribery in the private sector.
40. Article 253 CC covers the "illegal transfer/receipt of money, security of other property [...], as well as the illegal provision of services". The elements of promise and offer (active side), as well as of request and acceptance of an offer or promise (passive side) are not incriminated.

41. Like articles 366, 367 and 247, article 253 refers to material advantages and services of a property nature and does not cover immaterial benefits. The notion of “undue” is not explicitly transposed. Article 253 does not refer to the possibility of the offence being committed directly or indirectly, nor to the advantage being for the benefit of a third person. The offence of article 253 requires intentional commission.

“Persons who direct or work for, in any capacity, private sector entities”

42. Private sector entities include citizens, kandas⁵ and non-governmental commercial legal entities engaging in entrepreneurial activities (Entrepreneurial Code). As already indicated, according to article 3 of the Budget Code, any entrepreneurial entity with a share of state participation, whatever its form and amount, is considered as a quasi-state sector entity. The persons directing and working for such entities are subject to articles 366 and 367 CC. These articles apply among others to “persons equated to persons authorised to perform state functions”. As mentioned above, according to article 3, paragraph 28 CC, this concept includes: 1) a person performing managerial functions in a [...] quasi-state sector entity, as well as a person authorised to make decisions on the organisation and conduct of procurement, including state procurement; 2) a person responsible for the selection and implementation of projects funded from the state budget and the National Fund of the Republic of Kazakhstan, holding a position not lower than the head of an independent structural unit in a [...] quasi-state sector entity.
43. As regards commercial and other organisations with no state participation, article 253 CC provides for active and passive bribery of a person exercising managerial functions. Such a person is defined by article 3 paragraph 19 CC as “a person permanently, temporarily or by special authorisation performing organisational and managerial or administrative and economic duties in an organisation that is not a state body, local self-government body, state organisation or quasi-state sector entity”. Article 247 covers passive bribery of employees of non-state organisations not exercising management functions. According to the authorities, persons who work for private sector entities, not as managers or employees, but under other types of relationships, such as lawyers, clients, consultants, commercial agents, etc., they are covered only if they are operating under a written contract.

“In the course of business activity”; “...in breach of duties”

44. The relevant provisions of the CC do not use the concept of “in the course of business activities”. They refer to the recipient’s use of his (her) official position in the interests of the bribe-giver. Article 366 covers actions or inaction falling within the official duties of the bribe recipient, or if they can promote such actions/inaction by virtue of their official position, as well as for general patronage or connivance. Article 367 CC on active bribery does not contain the element of an act or an omission. Article 253 CC refers to the use of the person’s official position, as well as general patronage or connivance. Finally, article 247 CC requires the employee acting within the scope of his (her) duties. Therefore, it does not cover omission.

Sanctions

45. The sanctions foreseen under articles 366, 367 and 247 CC are mentioned above in paragraph 28. Under article 253 CC, active commercial bribery of persons exercising management functions is punishable by a fine in the amount of up to 5 000 monthly calculation indices, corrective labours in the same amount, community services for a term of up to 1 200 hours, restriction of

⁵ Kandas are members of the Kazakhstani diaspora.

liberty for a term of up to 5 years or deprivation of liberty for the same term. More severe sanctions are provided for in aggravated cases, including up to 12 years or 15 years of deprivation of liberty with confiscation of property respectively. The passive side of the offence committed without aggravating circumstances carries the same sanctions, with the addition of confiscation of property and deprivation of the right to hold certain positions or engage in certain activities for a term of up to 2 years. The sanctions foreseen for passive commercial bribery with aggravating circumstances are the same as for the active side, with the addition of deprivation of the right to hold certain positions or engage in certain activities for a term of up to 3 years respectively.

Bribery of officials of international organisations (Article 9 of ETS 173)

46. Bribery of officials of international organisations are explicitly covered by articles 366 and 367 CC. Paragraph 3 of Resolution No. 8 of the Supreme Court specifies that these include persons recognised as officials of international organisations by international treaties of the Republic of Kazakhstan in the field of combating corruption. The elements of the offence and the applicable sanctions detailed under bribery of domestic public officials also apply to bribery of officials of international organisations. Article 247 CC on the obtention of illegal remuneration does not apply to foreign public officials below managerial level. There is no case law/court decision concerning bribery of officials of international organisations.
47. Seconded personnel working in international organisations is not currently covered by articles 366 and 367 CC. However, the draft law under consideration by the Majilis of Parliament proposes to complement the glossary in article 3 of the CC with a new term defining an official of an internal organisation as follows: "37-1) official of an international organisation - a person holding a managerial position in organisations created by countries based on agreements that have the status of international treaties; a person performing activities in international organisations and recognised as an international official in accordance with international treaties ratified by the Republic of Kazakhstan; a person authorised by an international organisation to act on its behalf." This wording appears broad enough to capture seconded personnel, but would still not cover employees with no managerial responsibilities working in international organisations.

Bribery of members of international parliamentary assemblies (Article 10 of ETS 173)

48. Bribery of members of international parliamentary assemblies is not explicitly covered by articles 366 and 367 CC. The authorities refer to the notion of officials of international organisations, which is included in these articles. They also refer to the new definition of the notion of "official of an international organisation" contained in paragraph 37-1 that is meant to be added to the CC by the draft law currently under consideration by the Majilis of Parliament (see paragraph 47). There is no case law/court decision concerning bribery of members of international parliamentary assemblies.

Bribery of judges and officials of international courts (Article 11 of ETS 173)

49. The authorities indicate that bribery of judges and officials of international courts is covered by articles 366 and 367 CC, as the notion of "person holding a responsible public position" includes judges, according to article 3 paragraph 16 of the CC. However, all other persons mentioned in this paragraph are holding responsible positions in bodies established by the Constitution or laws of the Republic of Kazakhstan, and not in foreign or international bodies. Officials of international courts are said to be included in the notion of officials of international organisations – notion to be

amended by the draft law currently under consideration in Parliament (see paragraph 47). Article 247 CC does not cover the receipt of illegal remuneration by employees of international courts with no managerial responsibilities. There is no case law/court decision concerning bribery of judges and officials of international courts.

Trading in influence (Article 12 of ETS 173)

50. According to the authorities, passive trading in influence is criminalised by article 366 CC on passive bribery, read in combination with paragraph 2 of Resolution no. 8 of the Supreme Court.

Elements of the offence

"Asserts or confirms that s/he is able to exert an improper influence over the decision-making of [public officials]"

51. This concept is not explicitly present in article 366 CC. The authorities explain that according to paragraph 2 of Resolution no. 8 of the Supreme Court, subjects of the corruption offences should also include those persons who, although they did not have the authority to perform actions in the interest of the briber were able, due to their official position, to take measures to ensure that these actions were committed by other persons due to their official position. There is no case law implementing this Resolution in a trading in influence case.
52. The authorities affirmed that it is not relevant whether the influence was actually exerted or if it led to the intended result, as shown by paragraph 16 of Resolution no. 8 of the Supreme Court, which specifies that a bribe is considered completed from the moment the person accepts it, regardless of whether the bribe was received in full or in part and regardless of whether the person performed the action (inaction) for which the bribe was given.

Other constitutive elements

53. According to the authorities, the other constitutive elements of passive bribery of domestic public official apply to passive trading in influence.

Sanctions

54. According to the replies to the questionnaire, the sanctions for passive trading in influence are those of passive bribery of domestic public officials (see paragraph 28).

Bribery of domestic arbitrators (Article 1, paragraphs 1 and 2 and Articles 2 and 3 of ETS 191)

55. According to the authorities, bribery of domestic arbitrators is covered by article 247 CC on obtention of illegal remuneration, although domestic arbitrators are not explicitly mentioned in this article. As explained above, the constitutive elements of passive bribery in the public sector apply to a certain extent with regard to this specific offence; however, it does not cover the active side of the offence. The applicable sanctions are detailed under bribery of domestic public officials. There is no case law/court decision concerning bribery of domestic arbitrators.

Bribery of foreign arbitrators (Article 4 of ETS 191)

56. Bribery of foreign arbitrators is not incriminated in the CC.

Bribery of domestic jurors (Article 1, paragraph 3 and Article 5 of ETS 191)

57. Bribery of domestic jurors is not incriminated in the CC.

Bribery of foreign jurors (Article 6 of ETS 191)

58. Bribery of foreign jurors is not incriminated in the CC.

Other questions

Participatory acts

59. Aiding and abetting the commission of all the above-mentioned criminal offences is criminalised under Kazakhstani legislation.⁶ The same sanctions can be imposed on organisers, instigators and accomplices, who aided and abetted the commission of the bribery offences, as on the principal offender.

Jurisdiction

60. Under the relevant provisions of the general part of the CC, which apply to all criminal offences, jurisdiction is, firstly, established over acts committed within the territory of Kazakhstan (principle of territoriality), see article 7 CC which also includes offences which have only begun, been continued or been completed in Kazakhstan.

Article 7 CC: Effect of criminal law in relation to persons who committed a criminal infraction on the territory of the Republic of Kazakhstan

(1) A person who committed a criminal infraction on the territory of the Republic of Kazakhstan shall be subject to responsibility under this Code.

(2) A criminal infraction shall be deemed to have been committed on the territory of the Republic of Kazakhstan if it was initiated, continued or completed on the territory of the Republic of Kazakhstan. This Code shall also have effect on criminal infractions committed on the continental shelf and in the exclusive economic zone of the Republic of Kazakhstan.

(3) A person who committed a criminal infraction on a vessel assigned to a port of the Republic of Kazakhstan and located on open water or in air space outside the Republic of Kazakhstan shall be subject to criminal responsibility under this Code, unless otherwise provided by an international treaty of the Republic of Kazakhstan. Under this Code, a person who committed a criminal infraction on a war ship or in a military aircraft of the Republic of Kazakhstan, independently of its location, shall also bear criminal responsibility.

(4) The issue of criminal responsibility of diplomatic representatives of foreign states and other citizens who enjoy immunity, in the case of commission of a criminal infraction by these persons on the territory of the Republic of Kazakhstan, shall be resolved in accordance with international law regulations.

61. As regards offences committed abroad, article 8 paragraph 1 CC sets forth the principle that citizens of Kazakhstan, who commit a criminal act outside the territory of Kazakhstan are subject to criminal liability (principle of nationality) if that criminal act is recognised as a crime on the

⁶ See Article 28 CC and paragraphs 18 and 20 of Supreme Court Resolution no. 8.

territory of the State on which it was committed (*dual criminality*), unless they have been criminally punished for such acts abroad. Upon conviction of these persons, the penalty may not exceed the maximum sanction provided for by the law of the State on the territory of which the crime was committed. This provision also applies to foreigners and stateless persons present in Kazakhstan who cannot be extradited for prosecution or execution of their sentence. Moreover, article 8 paragraph 4 CC provides that foreign citizens and stateless persons not residing permanently in Kazakhstan who commit inter alia a corruption crime or a crime in the field of economic activity outside the territory of Kazakhstan are subject to criminal liability if they are prosecuted in Kazakhstan and have not been convicted in another State. The Republic of Kazakhstan does not have jurisdiction over offences committed abroad by foreigners, but involving one of its public officials, members of domestic public assemblies or any person referred to in Articles 9 to 11 of ETS 173 who is also one of its citizens, (Article 17.1.c of ETS 173).

Article 8 CC: Effects of criminal law in relation to persons who committed a criminal infraction outside the Republic of Kazakhstan

(1) Citizens of the Republic of Kazakhstan who committed a criminal infraction outside the Republic of Kazakhstan shall be subject to criminal liability under this Code if an action committed by them is recognised as criminally liable in the State on the territory of which it was committed and if these persons are not convicted in another State. Upon conviction of these persons, the penalty may not exceed the maximum sanction provided for by the law of the State on the territory of which the infraction was committed. On the same basis, foreigners and stateless persons being on the territory of the Republic of Kazakhstan shall bear responsibility in cases where they cannot be extradited to a foreign state for criminal prosecution or service of their sentence, in accordance with international treaties of the Republic of Kazakhstan.

The provisions of this Code shall be applied regardless of the place of commission of the crime in respect of citizens of the Republic of Kazakhstan, stateless persons permanently residing on the territory of the Republic of Kazakhstan in cases of commission of a terrorist or extremist crime, crimes against the peace and security of mankind or for causing any other grave harm to the vital interests of the Republic of Kazakhstan, unless otherwise established by an international treaty of the Republic of Kazakhstan.

(2) The conviction and other penal consequences of the commission of a criminally punishable action by a person on the territory of another State shall not have a criminal legal meaning for the resolution of the issue of this person's criminal responsibility for a criminal infraction committed on the territory of the Republic of Kazakhstan, unless otherwise provided for by an international treaty of the Republic of Kazakhstan or if the criminally punishable action committed on the territory of another State has not affected the national interests of the Republic of Kazakhstan.

(3) Military servants of military units of the Republic of Kazakhstan deployed abroad shall bear criminal liability under this Code for criminal infractions committed on the territory of a foreign State, unless otherwise provided for by an international treaty of the Republic of Kazakhstan.

(4) Foreigners and stateless persons who do not permanently reside on the territory of the Republic of Kazakhstan, who have committed a crime outside the Republic of Kazakhstan, are subject to criminal liability under this Code in cases where this act is directed against the interests of the Republic of Kazakhstan, the commission of a corruption crime or a crime in the field of economic activity and in cases provided for by an international treaty of the Republic of Kazakhstan, if they have not been convicted in another State and are being prosecuted on the territory of the Republic of Kazakhstan.

Statute of limitations

62. The period of limitation is determined by the classification of crimes⁷ – into criminal offences, crimes of little gravity, crimes of average gravity, grave crimes and especially grave crimes – on the basis of the severity of the sanctions which can be imposed for the offence in question.⁸ That said, Article 71 CC mentions specifically that corruption crimes of little or average gravity have the same statute of limitation as grave crimes, *i.e.* 10 years. It follows that the statute of limitations for corruption crimes with aggravating circumstances is 15 years. The period of limitation may be interrupted or suspended in various circumstances specified in Article 71 CC. That said, the absolute statute of limitation for corruption crimes of little or average gravity is 15 years, and 20 years in case of grave or exceptionally grave corruption crimes.
63. Articles 247 and 253 CC are not classified as corruption crimes and are, therefore, subject to shorter statutes of limitations. The statute of limitations for article 247 paragraphs 1 and 2 is one year and that for paragraph 3 is 2 years. The draft law currently before the Majillis of Parliament would increase the sentence for article 247 paragraph 3, bringing the statute of limitation for that offence to five years. For article 253, it is five years, and 10 years if there are aggravating circumstances.

Defences

64. A special defence is provided for active bribery offences committed in the public or in the private sector in two cases, *i.e.* in cases where the bribe was requested by the bribe-taker and in cases of voluntary reporting to the authorities. Supreme Court Resolution no. 8 provides some explanations on its use.

Note under Article 367 CC

2. A person who has given a bribe shall be released from criminal responsibility, if in relation to him/her an extortion of the bribe was committed by a person specified in the first part of Article 366 of this Code or if this person voluntarily reported giving a bribe to law enforcement or the special state body on bribery.

Note under Article 253 CC

1. A person who committed the actions provided for by the first or second parts of this article shall be released from criminal responsibility if he (she) was subject to an extortion or if he (she) voluntarily informed law enforcement or the special state body of the bribery.

Normative Resolution No. 8 of the Supreme Court of 27 November 2015 “On the practice of consideration of certain corruption crimes”

27. A person who has given a bribe is exempt from criminal liability if there has been extortion of a bribe by a person specified in the first part of Article 366 of the CC or if the person voluntarily

⁷ See Article 71 CC.

⁸ See Article 11 CC.

reported the giving of the bribe to law enforcement or a special state body.

The report (written or oral) of the crime must be recognised as voluntary, regardless of the motives of the informant. A report cannot be considered voluntary if it is made because the giving of the bribe has become known to law enforcement or a special state body.

27-1. If a person instigated to give a bribe voluntarily, including by being deceived, transfers money or other valuables as a bribe, then they are recognised as a bribe giver and bear criminal responsibility. Such a person is exempt from criminal liability based on point 2 of the note to Article 367 CC if they voluntarily reported the giving of the bribe to law enforcement or a special state body. In this case, the case is terminated in accordance with point 12 of the first part of Article 35 of the Criminal Procedure Code. In criminal proceedings, such a person acts as a witness.

If a person voluntarily reported the fact of extortion of a bribe or instigation to give a bribe before transferring the bribe, then the criminal prosecution against such a person who transferred the bribe under the control of law enforcement is terminated in accordance with point 2 of the first part of Article 35 of the Criminal Procedure Code due to the absence of elements of a criminal offence in their actions. In criminal proceedings, this person acts as a victim.

Article 35 of the Criminal Procedure Code: Circumstances excluding proceedings

Part 1, point 2: Criminal proceedings shall be terminated due to the absence of elements of a criminal offence in the act.

Part 1, point 12: Criminal proceedings shall be terminated concerning a person who is exempt from criminal liability under the provisions of the Criminal Code of the Republic of Kazakhstan.

65. As explained in paragraph 15, extortion is defined as the “requirement of transfer of another’s property or right to property or commission of other actions of property nature under the threat of” certain actions, as specified in article 194 CC. Paragraph 27-1 of Resolution no. 8 of the Supreme Court specifies that in such cases, the person who was subject to extortion must also voluntarily report to the competent authorities. As concerns the second case of this special defence – voluntary reporting – the Supreme Court Resolution states that the denunciation can be made orally or in writing to law enforcement authorities (which include prosecutors’ offices, internal affair bodies, the state fire service and the Anti-Corruption Agency) or a special state body (national security authorities, the authorised body in the field of foreign intelligence and the State Security Service) for any reasons save the fact that the offence has come to the knowledge of the authorities. According to the explanations provided by Resolution No. 8 of the Supreme Court, paragraph 27-1, in the event that the bribe was given, the discharge of the briber from criminal liability does not mean that there are no elements of a crime. The briber can therefore not be regarded as a victim and cannot claim restitution of the bribe. However, if the bribe giver reports to the authorities before giving the bribe, he or she is regarded as a victim, in the absence of elements of a crime. The decision to terminate the case is taken by the prosecuting authority, the prosecutor or the court, depending on the stage of the criminal procedure at which these circumstances become known.

66. Furthermore, the general part of the CC also provides for an effective regret defence under the following conditions.⁹

Article 65 CC: Release from criminal responsibility in connection with active repentance

1. A person who committed a criminal offence or committed a crime for the first time, may be released from criminal liability taking into account the identity of a guilty person, his/her acknowledgement of guilt, his/her assistance in solving, investigating the criminal offence, his/her expiation for the harm caused by the criminal offence.

A person, who committed a corruption crime for the first time, may be released from criminal liability in connection with his/her active repentance only by court.

2. The provisions of part one of this Article shall not be applied to the persons, who have committed a terroristic crime, an extremist crime, a crime committed as part of a criminal group, a crime against sexual immunity of minors, torture, a grave or especially grave crime against a person, except in cases specially provided by the relevant Articles of the Special part of this Code.

Statistics

67. The authorities communicated the following data regarding criminal investigations, court cases and convictions for corruption offences in the years 2021-2023.

2021					
	Art. 366 CC	Art. 367 CC	Art. 368 CC	Art. 247 CC	Art. 253 CC
Criminal proceedings	554	722	45	68	16
Cases sent to court	282	400	27	17	0
Convictions	214	353	24	4	2
2022					
Criminal proceedings	578	706	71	68	64
Cases sent to court	366	337	54	12	30
Convictions	210	192	20	0	3
2023					
Criminal proceedings	493	749	70	25	14
Cases sent to court	326	410	59	1	6
Convictions	222	290	48	2	6

⁹ See also Article 53 paragraph 11 CC which provides for mitigation of punishment, *inter alia*, in cases of sincere repentance, acknowledgement of guilt, active contribution to the detection of a criminal infraction, exposure of other accomplices of a criminal infraction and search for property, obtained as a result of a criminal infraction.

IV. ANALYSIS

68. Kazakhstan is the only GRECO member state that has not signed and ratified the Criminal Law Convention on Corruption (ETS 173) (hereafter: the Convention) and the Additional Protocol thereto (ETS 191). Nevertheless, Kazakhstan, like any other member of GRECO, is subject to peer review according to the standards of the Convention and its Additional Protocol which are under examination in the Third Evaluation Round (for details, see paragraph 2). The GET notes that Kazakhstan is the most recent member of GRECO, having joined on 16 January 2020. It further notes that Kazakhstan acceded, on 18 June 2008, to the United Nations Convention against Corruption (UNCAC), which – regarding the corruption offences – covers very much the same ground and is inspired by the same underlying philosophy as the Council of Europe Convention.
69. As the GET explored the issue of signature and ratification of the Convention and its Additional Protocol, the authorities reiterated their intention, already expressed in 2022 in the Joint First and Second Evaluation Report, to become a Party to this instrument. Accession to the Convention is one of the objectives of the Anti-Corruption Policy Concept approved by Presidential Decree no. 802 of 2 February 2022. To this end, the Action Plan for the implementation of the Concept foresees the submission by the last quarter of 2026 to the Majilis of Parliament of a draft law regarding accession to the Convention. The GET welcomes this information and GRECO recommends proceeding swiftly with the signature and ratification of the Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol (ETS 191). In this context, attention is drawn to the formal Appeal by the Committee of Ministers to States, made at its 103rd Ministerial Session on the occasion of the adoption of the text of the Criminal Law Convention on Corruption (4 November 1998), to limit as far as possible the reservations that they declare pursuant to the Convention, when expressing their consent to be bound by the Convention. On the same occasion, the Committee of Ministers appealed to States “which nevertheless find themselves obliged to declare reservations, to use their best endeavours to withdraw them as soon as possible.” The recommendations contained in paragraphs 73 (bribery of foreign public officials, officials of international organisations, members of international parliamentary assemblies, judges of international courts, domestic and foreign arbitrators and jurors), 78 (bribery in the private sector), 79 (trading in influence) and 86 (jurisdiction) of this report are without prejudice to the right of Kazakhstan to enter declarations and reservations pursuant to Article 37 of the Convention and Article 9 of its Additional Protocol.
70. In Kazakhstan, bribery in the public and private sector is mainly set out in the Criminal Code (CC), which entered into force on 1 January 2015. The authorities base their interpretation of bribery law primarily on Normative Resolution No. 8 of the Supreme Court of 27 November 2015 “On the practice of consideration of certain corruption crimes”, which is aimed at ensuring uniform and proper application of the law. Normative resolutions are binding on other courts. A specific feature of the Kazakhstani’s legal framework is the existence of two parallel systems of corruption offences, i.e. the criminal and administrative systems. Under the CC, bribery in the public sector is criminalised in articles 366 (passive bribery) and 367 (active bribery), as well as in article 247 (obtention of illegal remuneration). Notes under these articles specify the conditions under which the bribe giver or bribe taker are released from criminal responsibility. These notes form part of the articles and are binding on the courts. In addition, the Code of Administrative Offences (CAO) contains articles 676 (provision of illegal material remuneration) and 677 (receipt of illegal material remuneration).

71. According to the notes under articles 366 and 367 CC – each of which use different wording – the discussions on-site and case-law provided, the offence is not to be considered a crime by virtue of its insignificance when the following circumstances occur cumulatively: the bribe was given or taken for the first time as a gift for the commission/omission of a lawful act and the value of the gift is below two monthly calculation indices, about EUR 15. In this case, the offence must be prosecuted in the administrative or even the disciplinary system.
72. Turning specifically to the criminal legislation in place, the GET notes that all domestic public officials and members of domestic public assemblies are covered by the provisions of the CC, albeit in different articles depending on the level of their functions. Public officials with managerial or administrative-logistical functions, mayors, and members of the Parliament and of maslikhats (regional assemblies) – including candidates to these positions, ministers and judges are covered by articles 366 and 367 CC on passive and active bribery, read in conjunction with article 3 CC, which defines some of the CC's concepts. Public – and private – sector employees with no managerial or administrative-logistical powers are covered by article 247 CC on obtention of illegal remuneration. As regards prosecutors, decree of the President of the Republic no. 150 of 29 December 2015 on the approval of the Register of political and administrative civil servants' posts makes reference to heads of service and department in the General Prosecutor's Office, who are thus to be regarded as persons holding a responsible public position under article 3 paragraph 16 CC. Other prosecutors and employees of the prosecution authorities are considered as law enforcement officers and are also covered by article 3 CC.
73. As regards foreign and international officials, as well as domestic and foreign jurors and arbitrators, the GET welcomes that foreign public officials and officials of international organisations are explicitly referred to in articles 366 and 367 CC. Members of foreign public assemblies are also covered by these articles according to Normative Resolution no. 8 of the Supreme Court, paragraph 3, which specifies that officials of a foreign state include "any appointed or elected person holding a position in a legislative, executive, administrative or judicial body of a foreign state". However, members of international parliamentary assemblies, judges and officials of international courts, domestic and foreign arbitrators, domestic and foreign jurors are neither referred to in the wording of articles 366 and 367 CC, nor in Normative Resolution no. 8. Moreover, article 247 CC which applies to bribery of persons below managerial level does not make reference to any foreign or international officials. According to the authorities, bribery of members of international parliamentary assemblies and of officials of international courts is covered by articles 366 and 367 CC, as these persons are to be considered as officials of international organisations. While the GET could accept this explanation, it notes that Normative Resolution no.8 of the Supreme Court does not refer to officials of international organisations, unlike foreign officials. There is also no case law to confirm this interpretation. As regards bribery of judges of international courts, the authorities indicate that it would also be covered by articles 366 and 367 CC, as the notion of "person holding a responsible public position" includes judges, according to article 3 paragraph 16 CC. The GET observes in this regard that all other persons mentioned in this paragraph are holding positions in bodies established by the Constitution or laws of the Republic of Kazakhstan. There is no indication that this notion would include foreign or international officials. Finally, it is the authorities' position that domestic arbitrators would be covered by article 247 CC on obtention of illegal remuneration. However, they provided no elements to substantiate this view and there is no case law on this issue. In view of the above, GRECO recommends ensuring that bribery of all foreign public officials, officials of international organisations, members of international parliamentary assemblies, judges of international courts (Articles 5, 9, 10 and 11 of the Criminal Law Convention on Corruption (ETS 173)), as well as bribery of domestic and foreign arbitrators and jurors (Articles 2, 3,

4, 5 and 6 of the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) is criminalised.

74. The public sector bribery offences of articles 366, 367 and 247 each contain different elements and there is no consistent definition of a bribe in the CC. Articles 366 and 367 are included in the chapter of the CC on “corruption and other criminal infractions against the interest of the state service and state management”, while article 247, which is construed in such a way as to cover both public and private bribery, is placed in a different chapter of the CC dealing with economic crimes. This dichotomy has consequences on the sanctions, the application of special defences, the rules on jurisdiction and on statutes of limitations which will be explored below. It gives a general impression of a lack of coherence and clarity and makes it more difficult to align article 247 with the requirements of the Criminal Law Convention. It also sends the wrong message that some bribery offences are seen as less serious, depending on the recipient of the bribe. According to some of the GET’s interlocutors, this is partly due to the successive attempts at aligning Kazakhstan’s legislation with anti-corruption international standards. The GET takes the view that the CC provisions on bribery would certainly benefit from a comprehensive overhaul, to ensure that they form a clear, unambiguous, coherent and comprehensive legal framework. Consequently, GRECO recommends consolidating all provisions on bribery in the public sector within the same chapter of the Criminal Code.
75. Articles 366, 367 and 247 CC each miss several elements compared to the standards of the Convention and its Additional Protocol. Some of these gaps – but not all – are intended to be addressed by a draft law currently pending before Parliament. Firstly, the passive bribery offence of article 366 CC incriminates the “acceptance of a bribe” and misses, therefore, the elements of request and acceptance of an offer or promise. According to the information provided to the GET, the element of request would be added by the draft law, but not the other ones. The active side of the offence, incriminated in article 367 CC, only refers to the “giving of a bribe”, thereby missing the elements of promise and offer. Both of these elements would be added by the draft law, which is welcome. As regards the offence of article 247 CC on obtention of illegal remuneration, which applies to public officials below managerial level, it contains no active side. The passive side only mentions the “illegal obtention”, thus missing also the elements of request and acceptance of an offer or promise. The draft law would introduce an active side in the offence of article 247, but it would still be incomplete as it would only refer to the “illegal provision” of remuneration, and not to the promise or offer.
76. Secondly, turning to the notion of undue advantage, articles 366, 367 and 247 CC only cover “money, securities, other property, right to property or benefits of a property nature”. This excludes some material advantages, as well as all immaterial advantages. The provision of a job, or positive coverage in the press, for instance, cannot be recognised as bribes under this wording, as was confirmed by the discussions on-site. The element of “undue” advantage is not explicitly transposed. Thirdly, article 366 does cover the possibility of the offence being committed through an intermediary and of the bribe being intended for another person than the official. This is welcome. Unfortunately, article 367 does not cover third party beneficiaries and article 247 covers neither intermediaries nor third party beneficiaries. Finally, as regards the actions to be committed in exchange of the bribe, article 366 on passive bribery mentions that the actions or omissions must be “within the official powers” of the officials or that they were able to “promote” them “by virtue of their official position”, as well as “for general patronage or connivance”, notions which are defined by Supreme Court Resolution no. 8. During the discussions on-site, the GET was not able to establish clearly whether actions/omissions not in the official’s powers but which they had the opportunity to commit due their position, were incriminated. Article 367 makes no

reference to any action/omission to be committed by the official, while article 247 refers to “the performance of work or the rendering of services”, leaving omissions out of the scope of the article. Moreover, the fact that the articles criminalising the passive form and, respectively, the active form of the bribery offence do not mirror each other may cause problems in the enforcement of the law. In view of the above, GRECO recommends aligning articles 366, 367 and 247 of the Criminal Code on active and passive bribery in the public sector with the Criminal Law Convention on Corruption by (i) introducing the concepts of offer, promise, request and acceptance of an offer or promise of a bribe; (ii) covering clearly any form of (undue) advantage, including any non-material advantages, whether they are linked to benefits of a property nature or not; (iii) explicitly covering intermediaries and third party beneficiaries; and (iv) covering all acts/omissions in the exercise of the functions, whether or not they are within the scope of the person’s official competences.

77. Sanctions differ widely between bribery of public officials in articles 366 and 367 CC and article 247 CC on obtention of illegal remuneration, which, as explained above, applies to public officials with no managerial responsibilities. Active and passive bribery of public officials both entail *inter alia* imprisonment ranging from up to five years to up to 15 years depending on the gravity of the offence. The passive side of the offence also includes a compulsory lifelong ban to occupy certain positions or carry out certain functions. Furthermore, conditional sentences cannot be applied for corruption offences according to article 63 paragraph 6 CC and parole is not applicable for corruption crimes with aggravating circumstances (article 72 paragraph 8 CC). By contrast, article 247 CC does not carry a sentence of imprisonment, except when the offence was committed with certain aggravating circumstances. In that case, the maximum term of imprisonment is two years, along with a three-year ban to occupy certain positions or carry out certain functions. Moreover, while one of the sanctions provided by articles 366, 367 and 247 paragraph 3 CC is mandatory confiscation of the property, the other paragraphs of article 247 CC do not provide for such confiscation. The GET takes the view that there should not be such wide differences in sanctions depending on the position of the perpetrators. This sends the wrong message that some bribery offences are seen as less serious. Moreover, sanctions for bribery of public officials lack flexibility. This may be the reason why, according to Normative Resolution no. 8 of the Supreme Court, a bribe under EUR 15 given or received for the first time is not subject to criminal responsibility. Finally, the lifelong ban to occupy certain positions or carry out certain functions cannot be seen as proportional. The GET is convinced that introducing more flexibility and proportionality in sanctions would enable all cases of public sector bribery to be treated as such in the same chapter of the Criminal Code (see in this connection the recommendation in paragraph 74), while taking into account the circumstances of each case. Consequently, GRECO recommends ensuring that the sanctions in respect of bribery offences are effective, proportionate and dissuasive.

78. Turning to bribery in the private sector, article 253 CC on commercial bribery covers managers in the private sector, while article 247 covers employees with no managerial responsibility (as regards article 247, reference is made to the analysis and the recommendation under paragraph 74). Partners, lawyers, consultants etc. are covered by article 253 if they are operating under a written contract. The notion of private sector under Kazakhstani law includes the non-governmental sector, as well as private citizens. State participation in an entrepreneurial entity at whatever level and in any form entails the application of articles 366 and 367 CC on public sector bribery to the managers of that entity, as well as to persons involved in procurement procedures or state funded projects. As regards article 253 CC specifically, it has the same gaps as articles 366 and 367 CC. It misses the elements of request, acceptance of an offer or promise, promise

and offer¹⁰; material advantages not connected to property benefits and immaterial advantages; intermediaries and third-party beneficiaries. Finally, article 253 CC refers to the “use of the official position”, as well as “general patronage or connivance” in exchange for the bribe, as in public sector bribery offences. It seems that these notions do coincide with the element of “breach of duties” that is incriminated under articles 7 and 8 of the Convention. GRECO recommends aligning article 253 of the Criminal Code on commercial bribery with the Criminal Law Convention on Corruption by (i) introducing the concepts of offer, promise, request and acceptance of an offer or promise of a bribe; (ii) covering clearly any form of (undue) advantage, including any non-material advantages, whether they are linked to benefits of a property nature or not; and (iii) explicitly covering intermediaries and third party beneficiaries.

79. Trading in influence is not incriminated as a separate offence. According to the authorities, the passive bribery provision of article 366 CC, read in combination with paragraphs 2 and 16 of Normative Resolution no. 8 of the Supreme Court, could cover the passive side of the offence. Paragraph 2 namely states that “the subjects of [corruption] crimes should also include those persons, who although they had no powers of the relevant actions on behalf of a bribe giver, could take measures by virtue of their official capacity for the commission of these actions by other persons”. Paragraph 16 states that “a bribe shall be deemed received from the moment the person accepts the subject of a bribe, [...] whether or not the person performed the action (inaction) in pursuance of which the bribe was given”. However, the GET notes that these provisions have little to do with trading in influence and clearly miss several specific and crucial elements contained in article 12 of the Convention. For example, article 366 CC only applies to situations where the influence peddler him/herself is a public official. It would, therefore, not cover situations in which a person who is not a public official would receive an advantage for his or her own benefit in return for exerting influence on a public official. Concerning active trading in influence (i.e. the promising, giving or offering of an undue advantage to the influence peddler), the authorities acknowledged that, at present, there are no provisions in domestic law which would cover this offence. In view of the above, the GET concludes that trading in influence is not criminalised in Kazakhstan. Consequently, GRECO recommends criminalising active and passive trading in influence in accordance with article 12 of the Criminal Law Convention on Corruption (ETS 173).
80. According to notes under articles 367 and 253 CC, the bribe-giver is exempted from punishment in cases of active bribery in the public and in the private sectors if the bribe was extorted from him/her or if he/she voluntarily reported the bribe to law enforcement authorities or the Anti-Corruption Agency. The general part of the CC also foresees an effective regret defence under article 65. During the visit, the GET discussed several specific questions relating to these special defences. As regards extortion, the GET notes that it is defined both in article 194 CC and in paragraph 11 of Normative Resolution no. 8 of the Supreme Court. These two provisions have different wordings, and the GET heard different interpretations of their scope on-site. While refraining from issuing a specific recommendation on this matter, it wishes to stress the need to ensure that the notion of extortion is interpreted consistently in a narrow sense, to make sure that the defence of extortion applicable in bribery cases does not cover situations where there is no threat to a person’s life or physical integrity or when the bribery was not unavoidable.
81. Turning to effective regret, the GET understood that the notes under articles 367 and 253 CC are to be mandatorily applied if the conditions for their application are met. In such cases, pre-trial

¹⁰ The authorities specified that the elements of promise and offer are missing in this article because the subject of the offence of article 253 CC does not fall under the category of subjects of corruption crimes, in accordance with article 29 CC.

investigations are terminated by the investigator in charge, under the control of the prosecutor. By contrast, article 65 CC is applied by the courts in an entirely discretionary manner. There is no guidance available on the conditions for the application of this provision, except that it is not available for crimes qualified as exceptionally grave, according to paragraph 2 of the article. The GET was informed of one case of application of article 65 CC in recent years. The note under article 367 CC is applied much more frequently, with 95 cases of application by the territorial departments of the Anti-Corruption Agency alone in the first nine months of 2024.

82. The GET has misgivings about the application of the special defences of effective regret, in particular about the automatic nature of the notes under articles 367 and 253 CC. There is no possibility for taking into consideration the situation at stake, as regards for instance the motives that the perpetrator may have for reporting the offence and invoking effective regret. In principle, very serious cases of active corruption could go totally unpunished by reference to this defence. The effective regret provisions apply in respect of the bribe-giver, whether or not the initiative from committing the offence comes from him/herself; the bribe-giver could even act as an instigator and be exonerated afterwards, as a result of having reported the crime. The GET notes that this tool could be misused by the bribe-giver, for example as a means of exerting pressure on the bribe-taker to obtain further advantages, or in situations where a bribery offence is reported long after it was committed, since there is no statutory time-limit – it is even sufficient that the confession occurs after the authorities became aware of the offence, if the informer is unaware of that fact. The GET is all the more concerned about the notes under articles 367 and 253 CC in their current broad form that statistics reveal their frequent use. In the light of these misgivings and in the absence of safeguards against misuse of these notes in the present context (e.g. immediate reporting of the offence, limitation of the defence of effective regret to cases where the offender was solicited), GRECO recommends analysing and accordingly revising the automatic – and mandatory total – exemption from punishment in cases of effective regret.
83. According to article 11 CC, the period of limitation is determined by the classification of crimes – into criminal offences, crimes of little gravity, crimes of average gravity, grave and especially grave crimes – based on the severity of the sanctions which can be imposed for the offence in question. That said, article 71 CC mentions specifically that corruption crimes of little or average gravity have the same statute of limitation as grave crimes, i.e. 10 years. Accordingly, the limitation period provided for active and passive bribery offences in the public sector under articles 366 and 367 CC is 10 years. If there are aggravating circumstances, the period of limitation increases to 15 or 20 years. As article 247 is not part of the chapter of the CC on corruption, the statute of limitation for little and average gravity cases of obtention of illegal remuneration in the public and private sector is one year. It is of two years for graver cases¹¹. Finally, the statute of limitation for commercial bribery under article 253 CC is five years, and 10 years if there are aggravating circumstances. The GET takes the view that the one- and two-year limitation periods under article 247 CC are too short, given the special difficulties encountered in detecting and investigating corruption offences, and compared with the situation in most other member States. It is partly a consequence of the dichotomy highlighted above between the public corruption cases, which are dealt with in a dedicated chapter of the CC and carry severe sanctions, and the private sector corruption cases, which are seen as much less serious. The GET made the point throughout this report that all bribery offences should be qualified as such, include the same elements and carry the same consequences. In the specific case of article 247 paragraph 1, it was informed that a number of cases had become time-barred due to the expiry of

¹¹ The draft law currently under the Majllis would increase the sanction for article 247 paragraph 3, bringing the statute of limitation for that offence to five years.

the limitation period. Consequently, GRECO recommends extending the one-year and two-year limitation periods foreseen under article 247 of the Criminal Code.

84. Rules on jurisdiction are contained in articles 7 and 8 CC. According to article 7, criminal jurisdiction is established in respect of all offences committed on the territory of the Republic of Kazakhstan – in full or in part, according to paragraph 2 of the article (territorial jurisdiction). This is in conformity with Article 17.1 a. of the Convention.
85. As regards compliance with article 17.1 b. of the Convention, the GET notes that article 8 paragraph 1 CC establishes jurisdiction over criminal offences committed abroad by citizens of Kazakhstan if these offences are recognised as a crime on the territory of the State on which they were committed (dual criminality). This dual criminality requirement restricts the scope of jurisdiction in comparison with article 17.1.b. of the Convention, which requires state parties to establish jurisdiction in all cases where the offender is one of their nationals, public officials, or a member of one of their domestic public assemblies. The GET also notes in this respect that article 8 paragraph 4 CC establishes jurisdiction for crimes committed abroad by foreigners and stateless persons who do not permanently reside on the territory of the Republic of Kazakhstan, “in cases where this act is directed against the interests of the Republic of Kazakhstan, the commission of a corruption crime or a crime in the field of economic activity and in cases provided for by an international treaty of the Republic of Kazakhstan”. This provision could read as giving the Republic of Kazakhstan universal jurisdiction over corruption and economic crimes committed abroad by foreigners if the conditions listed in this article were alternative. However, the GET heard conflicting positions on-site regarding the alternative or cumulative character of these conditions and there is no case law to clarify this point. Moreover, corruption crimes are listed exhaustively in article 3 paragraph 29 CC and include only articles 367 and 368 CC on bribery of public officials. Article 247 on obtention of illegal remuneration is included in the chapter of the CC on crimes in the field of economic activity and falls, therefore, under the scope of article 8 paragraph 4 CC, but this is not the case of article 253 CC. Therefore, commercial bribery under article 253 would in any case not be subject to the jurisdiction of Kazakhstani courts when committed abroad.
86. Finally, turning to article 17.1.c. of the Convention, the GET notes that none of the provisions of articles 7 and 8 CC establish jurisdiction of the Republic of Kazakhstan over bribery and trading in influence offences involving one of its public officials, members of domestic public assemblies or any person referred to in articles 9 to 11 of the Convention who is also one of its citizens. This would be the case for instance of the active bribery of a Kazakhstani public official by a foreign national when the events themselves occurred abroad. In view of the above, GRECO recommends (i) abolishing the requirement of dual criminality with respect to the offences of bribery and trading in influence committed abroad and thus ensuring jurisdiction over all offences of bribery and trading in influence committed abroad by Kazakhstani public officials or members of public assemblies, in accordance with Article 17 paragraph 1, subparagraph b; (ii) establishing jurisdiction over all offences of bribery and trading in influence committed abroad that involve Kazakhstani public officials or members of its domestic public assemblies or any person referred to in Articles 9 to 11 of the Criminal Law Convention on Corruption (ETS 173) who is at the same time one of its nationals.

V. CONCLUSIONS

87. Kazakhstan has not yet signed or ratified the Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol (ETS 191). Nevertheless, Kazakhstan, like any other member of

GRECO, is subject to peer review according to the standards of the Convention and its Additional Protocol, which it is encouraged to sign and ratify as soon as possible. Corruption offences as set out in the Criminal Code miss several elements compared to the standards of the Convention and its Additional Protocol. Bribery of public officials is dealt with in different provisions of the Criminal Code depending on the level of the official's functions. These provisions do not cover adequately all foreign and international public officials, nor domestic and foreign arbitrators and jurors. They contain a number of gaps, as regards the active and passive sides of the offences, the notion of advantages, intermediaries and third-party beneficiaries, as well as all acts and omissions in the exercise of the functions. Sanctions foreseen in some of these offences lack flexibility and proportionality. The provisions on bribery in the private sector contain the same gaps as those on public sector bribery and trading in influence is not incriminated in accordance with the Convention. Moreover, the possibility provided by the special defence of effective regret to exempt the bribe-giver who voluntarily reports the offence should be reviewed in order to limit the risks of abuse. The limitation periods foreseen in one of the provisions of the Criminal Code are too short. Finally, in respect of the applicability of the criminal law of Kazakhstan ("jurisdiction") to offences committed abroad, the Criminal Code is slightly more restrictive than provided for in the Criminal Law Convention on Corruption. These shortcomings need to be addressed by the authorities of Kazakhstan with determination in order to ensure that the provisions criminalising corruption are in compliance with the Criminal Law Convention on Corruption and its Additional Protocol.

88. In view of the above, GRECO addresses the following recommendations to Kazakhstan:
- i. proceeding swiftly with the signature and ratification of the Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol (ETS 191) (paragraph 69);
 - ii. ensuring that bribery of all foreign public officials, officials of international organisations, members of international parliamentary assemblies, judges of international courts (Articles 5, 9, 10 and 11 of the Criminal Law Convention on Corruption (ETS 173)), as well as bribery of domestic and foreign arbitrators and jurors (Articles 2, 3, 4, 5 and 6 of the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) is criminalised (paragraph 73);
 - iii. consolidating all provisions on bribery in the public sector within the same chapter of the Criminal Code (paragraph 74);
 - iv. aligning articles 366, 367 and 247 of the Criminal Code on active and passive bribery in the public sector with the Criminal Law Convention on Corruption by (i) introducing the concepts of offer, promise, request and acceptance of an offer or promise of a bribe; (ii) covering clearly any form of (undue) advantage, including any non-material advantages, whether they are linked to benefits of a property nature or not; (iii) explicitly covering intermediaries and third party beneficiaries; and (iv) covering all acts/omissions in the exercise of the functions, whether or not they are within the scope of the person's official competences (paragraph 76);
 - v. ensuring that the sanctions in respect of bribery offences are effective, proportionate and dissuasive (paragraph 77);

- vi. aligning article 253 of the Criminal Code on commercial bribery with the Criminal Law Convention on Corruption by (i) introducing the concepts of offer, promise, request and acceptance of an offer or promise of a bribe; (ii) covering clearly any form of (undue) advantage, including any non-material advantages, whether they are linked to benefits of a property nature or not; and (iii) explicitly covering intermediaries and third party beneficiaries (paragraph 78);
 - vii. criminalising active and passive trading in influence in accordance with article 12 of the Criminal Law Convention on Corruption (ETS 173) (paragraph 79);
 - viii. analysing and accordingly revising the automatic – and mandatory total – exemption from punishment in cases of effective regret (paragraph 82);
 - ix. extending the one-year and two-year limitation periods foreseen under article 247 of the Criminal Code (paragraph 83);
 - x. (i) abolishing the requirement of dual criminality with respect to the offences of bribery and trading in influence committed abroad and thus ensuring jurisdiction over all offences of bribery and trading in influence committed abroad by Kazakhstani public officials or members of public assemblies, in accordance with Article 17 paragraph 1, subparagraph b; (ii) establishing jurisdiction over all offences of bribery and trading in influence committed abroad that involve Kazakhstani public officials or members of its domestic public assemblies or any person referred to in Articles 9 to 11 of the Criminal Law Convention on Corruption (ETS 173) who is at the same time one of its nationals (paragraph 86).
89. In conformity with Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of Kazakhstan to present a report on the implementation of the above-mentioned recommendations by 30 September 2026.
90. Finally, GRECO invites the authorities of Kazakhstan to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public.