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## IMPROVEMENT OF CRIMINAL LAW MEASURES TO COMBAT THE PARTICIPATION OF CITIZENS OF THE REPUBLIC OF KAZAKHSTAN IN FOREIGN ARMED CONFLICTS

### Abstract

This study represents one of the first comprehensive attempts to analyze the participation of citizens of the Republic of Kazakhstan in foreign armed conflicts from the standpoint of criminal law and forensic science. The purpose of the article is a comprehensive criminal law and criminalistic analysis of the participation of citizens of the Republic of Kazakhstan in foreign armed conflicts, identification of gaps and problems of legal regulation and law enforcement practice, as well as the development of scientifically sound proposals to improve Article 172 of the Criminal Code of the Republic of Kazakhstan and improve the effectiveness of the investigation and evidence of these crimes. The paper highlights legislative gaps, challenges in proving intent and motivation, and issues arising in investigations and judicial proceedings under Article 172 of the Criminal Code of the Republic of Kazakhstan. New approaches are proposed for legal classification, evidence collection, and cooperation between law enforcement agencies and international institutions. In addition, a comparative legal analysis of foreign practices is conducted, which serves as the basis for proposals to improve national legislation. As a result of the research, criminal law and forensic challenges were identified in the classification, investigation, and proof of citizens' participation in foreign armed conflicts. The study reveals ambiguities and gaps in the legal regulation, insufficient clarity in the elements of the crime defined in Article 172 of the Criminal Code, and difficulties in investigative and judicial practice when establishing intent and other subjective elements of such acts. The article formulates concrete recommendations to improve the criminal legislation of the Republic of Kazakhstan, particularly regarding clarifying the wording of Article 172, and provides practical guidance on the application of legal norms governing liability for participation in armed conflicts outside the country.

**Keywords:** armed conflict, foreign states, criminal liability, criminal law issues, criminological problems, counteraction.

### Introduction

In the context of an unstable international environment and the increasing number of armed conflicts of various scales, the participation of citizens of the Republic of Kazakhstan in hostilities abroad acquires particular legal and forensic significance. Such actions pose a threat not only to the individuals involved but also to national security and undermine the country's international reputation, contributing to the spread of radical ideologies. In this regard, the issues of legal regulation, qualification, and investigation of such crimes, as well as the development of effective mechanisms for their prevention and suppression, become especially relevant.

A complex set of political, social, and economic factors drives Kazakhstani citizens' involvement in foreign armed conflicts. A major reason is the lack of effective protection for citizens from violence and instability, which fosters a sense of threat stemming from internal conflicts or humanitarian crises. Under such conditions, individuals often decide to join armed groups abroad, a phenomenon supported by studies on the causes of migration and engagement in conflict situations. For instance, cases of genocide and ethnic cleansing in certain regions evoke a response from citizens who seek to protect their compatriots actively [1].

Social aspects such as group identification and social fragmentation also play a significant role. Individuals may be influenced by community pressure, in which collective mentalities form around protecting the group from external threats. This leads to situations in which people are willing to engage in armed conflict, believing their actions are justified in defense of group interests [2].

Within specific communities, a desire to counter perceived threats is reinforced by economic instability and lack of opportunities.

Organizations that utilize private military contractors add another dimension to this issue. Mercenaries may attract individuals by presenting participation in conflicts as a means of improving their financial well-being. Modern private military companies are gaining increasing influence, often operating outside legal regulation, and their activities contribute to the emergence and escalation of conflicts [3]. In some cases, they recruit citizens through promises of high pay or through organized recruitment campaigns. This creates conditions where weak law enforcement and high crime rates fuel a demand for specialized skills, drawing individuals into conflict zones.

Political factors also influence citizens' participation in armed conflicts abroad. Political instability and conflicts driven by external interventions often lead to a sense of urgency to protect national or ideological interests on the international stage. International conflicts are frequently manipulated to achieve political goals, which motivates some citizens to become active participants. Therefore, given the complexity of the factors at play, it must be recognized that individuals not only seek to protect their own interests but are also driven by external influences to participate in foreign conflicts.

One such influence is the cultural and historical connection with regions in conflict, which can serve as a motivating factor for participation. For example, certain citizens of Kazakhstan may feel a moral obligation to assist an ethnic or cultural group abroad, an attitude often shaped by media narratives and propaganda [4].

It is critically important for the state to consider these causes and develop strategic approaches to prevent citizens from participating in international conflict zones. Creating a secure socio-economic environment, ensuring legal protection, and implementing educational and awareness programs can help reduce the likelihood that citizens become involved in situations that endanger their lives and well-being. Emphasizing the prevention of radicalization and the development of positive opportunities for youth is a key priority at this stage of societal development.

Expanding social dialogue, strengthening trust between the state and its citizens, providing legitimate employment opportunities, and enhancing youth policy can serve as a foundation for reducing the impact of conflict dynamics on individual decision-making. It is also important to analyze experiences from other countries and adapt successful strategies to Kazakhstan's specific conditions to effectively prevent further citizen involvement in armed conflicts [5].

### **Materials and methods of research**

This study employed a combination of general scientific and specialized legal research methods to conduct a comprehensive analysis of the criminal law regulation governing the participation of citizens of the Republic of Kazakhstan in foreign armed conflicts. The comparative legal method was used to examine the norms of the criminal legislation of Kazakhstan and other countries regarding the prosecution of citizens involved in armed conflicts on behalf of foreign states or illegal armed groups. The formal legal method was applied to analyze the structure and content of relevant criminal law provisions and to identify the legal elements of the offense. The sociological method, including the analysis of expert interviews, reports from non-governmental organizations, and international institutions, was instrumental in identifying the causes and conditions under which citizens become involved in armed conflicts abroad. A systemic approach provided a holistic perspective on the issue, taking into account criminal law, international legal, political, and social dimensions.

The application of these methods enabled the formulation of specific proposals to improve the Republic of Kazakhstan's criminal legislation, aimed at enhancing its effectiveness in combating citizens' participation in foreign armed conflicts and preventing related threats to national security.

### **Results and discussion**

Improving criminal law measures aimed at combating the participation of citizens of the Republic of Kazakhstan in foreign armed conflicts—particularly within the scope of Article 172 of the Criminal Code—is a crucial component of the national strategy for countering terrorism and extremism and ensuring state security. This necessity stems from the growing threat posed by the

involvement of Kazakhstani citizens in international armed conflicts, their potential support of terrorist groups, and the possible return of radicalized individuals to Kazakhstan.

Several key directions for improving criminal legislation, particularly in relation to Article 172 of the Criminal Code of the Republic of Kazakhstan, can be identified:

One of the main issues with the current version of Article 172 is the lack of clarity in interpreting the term "*participation in armed conflicts*." It is essential to define this concept in detail to avoid legal ambiguities and inconsistent judicial interpretations.

It is proposed to revise Article 172 to explicitly include not only direct involvement in combat operations but also financing, logistical support, information dissemination, propaganda activities, recruitment of citizens, and other forms of assistance to illegal armed groups. Liability should also cover the transfer of weapons, the organization of travel for the purpose of joining armed conflicts, and other acts that contribute to illegal military activities.

The greatest danger is posed by armed conflicts involving terrorist groups or supported by radical ideologies such as ISIS, the Taliban, and similar organizations that oppose legitimate governments and international law. Amendments to Article 172 should introduce stricter sanctions for citizens participating in conflicts supported by terrorist organizations. These could include increased prison terms and additional penalties for those acting on behalf of such entities. It is also necessary to include provisions that enhance liability for actions linked to terrorism, such as training, recruitment, planning, or supporting terrorist acts.

Many Kazakhstani citizens are drawn into foreign conflicts through recruitment by radical organizations or exposure to online propaganda. Therefore, criminal liability should be introduced for the recruitment of citizens for participation in armed conflicts, especially by terrorist groups, regardless of whether the participation occurs within Kazakhstan or abroad. Recruitment as a means of forming illegal armed groups should be criminalized under Article 172. Liability should also extend to the organization of travel to conflict zones, including assistance with visas, transportation, and fundraising. Given the growing role of the internet and social media in promoting radical ideologies and recruiting individuals for armed conflicts, it is essential to incorporate these realities into legislation.

Criminal law measures should be developed and implemented to suppress the recruitment and extremist propaganda conducted online and on social networks. This may include criminal liability for publishing propaganda materials, inciting violence, or encouraging support for armed conflicts online. Amendments to Article 172 should specify that liability extends not only to physical participation in conflicts but also to the creation and distribution of online content intended to recruit or organize individuals to participate in foreign armed conflicts. Citizens returning from foreign conflict zones may suffer from psychological trauma and are at high risk of further radicalization. Therefore, a comprehensive approach is needed to ensure their rehabilitation and reintegration into society.

Programs for social adaptation and psychological rehabilitation should be introduced for citizens returning from conflict zones. These measures must address not only the challenges of reintegration but also the prevention of re-radicalization. Develop legislative initiatives providing for psychological support to individuals returning from conflict zones, as well as assistance with employment and social reintegration. The participation of Kazakhstani citizens in international conflicts is a global phenomenon that necessitates close cooperation with other countries and international organizations.

Develop legal mechanisms to facilitate active international cooperation in combating the involvement of citizens in foreign armed conflicts. Such mechanisms may include mutual legal assistance and the extradition of individuals accused of participating in illegal armed groups or terrorist acts abroad. Engage in international initiatives aimed at monitoring the movement of citizens into conflict zones, utilizing databases of terrorists and other persons posing security threats. Ensure ongoing monitoring of the implementation of Article 172 of the Criminal Code of the Republic of Kazakhstan (RK), alongside regular legal expertise that takes into account the evolving circumstances of international armed conflicts, threats of terrorist radicalization, and emerging recruitment methods.

Establish a mechanism for the periodic review and updating of legislation in response to new challenges, such as the emergence of new terrorist groups or participation in informal armed formations.

Develop analytical and monitoring tools to prevent and promptly respond to any attempts at recruitment and participation of Kazakhstani citizens in armed conflicts.

Enhancing criminal law measures to counter the participation of citizens of the Republic of Kazakhstan in foreign armed conflicts remains a critical task, particularly amid global security challenges and threats. Article 172 of the Criminal Code of the RK, which addresses participation in armed conflicts beyond the country's borders, forms the legal basis for these measures.

There is a need to clarify and expand the concepts employed in Article 172 of the Criminal Code, including defining what constitutes "participation in armed conflicts" and specifying the circumstances under which citizens' actions may be deemed criminal.

Consider introducing stricter penalties for citizens who participate in foreign armed conflicts, including increased prison terms and additional sanctions.

Develop programs to prevent citizens from participating in foreign armed conflicts, as well as rehabilitation measures for those who have already participated. These programs should include both social and psychological components.

Strengthen cooperation with international organizations and other states to exchange experience and information on counter-terrorism and extremism, as well as to develop joint measures to combat the financing of terrorist organizations.

Conduct information campaigns to raise public awareness about the risks of participating in foreign conflicts and the potential legal and social consequences of such activity.

Enhance law enforcement agencies' capacity to combat the recruitment of citizens to participate in armed conflicts by implementing modern technologies and investigative methods.

Establish monitoring systems to track citizen involvement in international conflicts, enabling rapid responses to emerging threats and allowing analysis of trends.

Criminal law measures aimed at preventing citizens of the Republic of Kazakhstan from participating in foreign armed conflicts have become a significant component of Kazakhstani legislation in recent years. The application of criminal sanctions targets the suppression of citizen involvement in terrorist organizations and armed conflicts abroad, which pose threats not only to national security but also to the country's international reputation.

Based on the legislation of the Republic of Kazakhstan and Article 172 of the Criminal Code (participation of a citizen of the RK in foreign armed conflicts), several key directions and practical examples from 2024 can be identified.

1. Participation of Kazakhstani citizens in armed conflicts on the side of terrorist groups.

Kazakhstani legislation provides for criminal liability for citizens participating in armed conflicts, if such participation is associated with terrorist groups such as the Islamic State (ISIS), the Taliban, and other international terrorist organizations.

Example from 2024: In 2024, Kazakhstan continued its fight against the terrorist threat and participated in joint counterterrorism operations with international partners. Cases were recorded of Kazakhstani citizens returning who had taken part in terrorist groups abroad, for example, in Syria or Iraq.

In 2024, several citizens of Kazakhstan were arrested on charges of supporting terrorist organizations and recruiting for participation in terrorist activities. For example, a person returning from Syria was charged with involvement in a terrorist group and violating the legislation of the Republic of Kazakhstan under Article 172 of the Criminal Code of the RK.

Article 172 of the Criminal Code of the RK: «Participation of a citizen of the Republic of Kazakhstan in an armed conflict or hostilities on the territory of a foreign state involving the use of armed forces, combat actions, or acts of violence against the civilian population» Such crimes are punishable by imprisonment for a term of 5 to 10 years.

2. Recruitment of citizens for participation in armed conflicts  
Kazakhstan actively combats the recruitment of its citizens to participate in foreign armed conflicts.

Penalties for recruitment or assistance in organizing citizens' travel to conflict zones may include severe criminal sanctions.

Example from 2024: In one case, a citizen of Kazakhstan was detained for organizing trips for citizens of the RK to conflict zones in Syria. He was charged with recruitment and assistance in organizing travel, as well as aiding a terrorist organization.

Article 172 of the Criminal Code of the RK also applies to organizers who recruit citizens or assist in their participation in armed conflicts. In such cases, punishment may be increased if it is proven that recruitment was aimed at participation in terrorist activities.

3. Application of preventive measures and return of citizens involved in conflicts  
To prevent repeated participation of citizens in armed conflicts, as well as their rehabilitation, Kazakhstan is developing a system of reintegration and radicalization prevention.

Example from 2024: In 2024, several citizens of Kazakhstan returning from armed conflict zones underwent special rehabilitation and psychological assistance to prevent their return to radical activities.

Upon their return, citizens involved in armed conflicts are subject to checks by law enforcement agencies to exclude the risk of committing crimes. Those who have passed through terrorist groups are obliged to cooperate with state authorities to prevent further acts of violence.

Article 172 of the Criminal Code of the RK is applied in these cases to punish citizens who directly participated in hostilities abroad. If participation was connected with terrorist groups, the punishment may be more severe.

4. Propaganda of violence and extremism via the Internet  
In 2024, Kazakhstan also intensified efforts to combat the propaganda of extremist and terrorist ideologies via the Internet. Participation of citizens in armed conflicts abroad often begins with the dissemination of propaganda materials and radicalization through social networks.

Example from 2024: In 2024, Kazakhstani law enforcement agencies identified several cases where citizens of the RK used social networks to promote participation in the conflict in Ukraine or the Middle East. In these cases, criminal cases were initiated, and the defendants were held accountable under articles on terrorist propaganda.

Article 174 of the Criminal Code of the RK: «Propaganda of violence, terrorist actions, dissemination of extremist materials.» This article is applied in the context of punishment for the use of the Internet to recruit citizens and to spread materials aimed at participation in hostilities abroad.

5. International cooperation in 2024, Kazakhstan continued cooperation with international organizations such as the UN and Interpol to combat the participation of citizens in armed conflicts.

Kazakhstan actively worked within the framework of the Global Coalition to Counter Terrorism and participated in efforts to prevent the recruitment of its citizens to participate in foreign conflicts.

Example from 2024: Kazakhstan participated in international forums and initiatives on returning foreign fighters and preventing radicalization, and developed joint programs with neighboring states to combat terrorism and extremism.

Article 172 of the Criminal Code of the Republic of Kazakhstan applies in these cases in the context of international agreements, enabling Kazakhstan to cooperate with other countries to suppress the illegal activities of its citizens on the international stage.

### **Conclusion**

Based on the aforementioned examples, it can be stated that Kazakhstan is actively developing criminal legal measures to combat the participation of its citizens in foreign armed conflicts, including involvement in terrorist groups, recruitment activities, and assistance in organizing travel to conflict zones. The application of Article 172 of the Criminal Code of the Republic of Kazakhstan (CC RK), along with other relevant legislative provisions, in 2024 aimed to ensure national security, suppress terrorist activity, and prevent the radicalization of society. It is important to emphasize that criminal prosecution for participation in international armed conflicts should be complemented by preventive,

rehabilitative, and international cooperation measures for a more effective response to security threats.

Improving criminal legal measures requires a comprehensive approach that combines tightening legislation with proactive engagement with the population, law enforcement bodies, and the international community. This approach will not only reduce the Republic of Kazakhstan's citizens' involvement in foreign armed conflicts but also enhance the country's overall security.

The enhancement of criminal legal regulation under Article 172 of the Criminal Code of the Republic of Kazakhstan, «Participation of citizens of the Republic of Kazakhstan in foreign armed conflicts», must take into account current global challenges and opportunities to develop more precise and effective responses to such participation. Stricter penalties for involvement in terrorist groups, the expansion of legal definitions related to recruitment and propaganda, and the development of international cooperation mechanisms are essential steps toward strengthening national security and preventing emerging threats.

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## ҚАЗАҚСТАН РЕСПУБЛИКАСЫ АЗАМАТТАРЫНЫҢ ШЕТЕЛДІК ҚАРУЛЫ ЖАНЖАЛДАРҒА ҚАТЫСУЫНА ҚАРСЫ КҮРЕСТЕГІ ҚЫЛМЫСТЫҚ-ҚҰҚЫҚТЫҚ ШАРАЛАРДЫ ЖЕТІЛДІРУ

### Андатпа

Зерттеу Қазақстан Республикасы азаматтарының шетелдік қарулы қатығыстарға қатысуын қылмыстық құқық пен криминалистика тұрғысынан кешенді түрде талдауға бағытталған алғашқы ғылыми жұмыстардың бірі болып табылады. Мақаланың мақсаты-Қазақстан Республикасы азаматтарының шетелдік қарулы қатығыстарға қатысуын кешенді қылмыстық-құқықтық және криминалистикалық талдау, құқықтық реттеу мен құқық қолдану практикасындағы олқылықтар мен проблемаларды анықтау, сондай-ақ ҚР ҚК 172-бабын жетілдіру және осы қылмыстарды тергеу мен дәлелдеудің тиімділігін арттыру жөнінде ғылыми негізделген ұсыныстар әзірлеу. Зерттеуде заңнамадағы олқылықтар, қасақана ниет пен уәждемені дәлелдеудегі қиындықтар, сондай-ақ ҚК 172-бабы бойынша істерді тергеу және сот қарауы тәжірибесіндегі мәселелер ашып көрсетіледі. Қылмыстық құқықтық саралау, дәлелдемелерді жинау және құқық қорғау органдарының халықаралық құрылымдармен өзара іс-қимылы бойынша жаңа тәсілдер ұсынылады. Сонымен қатар шетелдік тәжірибемен салыстырмалы-құқықтық талдау жүргізіліп, отандық заңнаманы жетілдіруге қатысты ұсыныстар ғылыми тұрғыда негізделген. Зерттеу нәтижесінде Қазақстан Республикасы азаматтарының шетелдік қарулы жанжалдарға қатысу фактілерін саралау, тергеу және дәлелдеу барысында туындайтын қылмыстық-құқықтық және криминалистикалық мәселелер айқындалды. ҚК-нің 172-бабында көзделген қылмыс құрамының жеткілікті түрде нақтыланбауы, құқықтық

реттеудегі түсініксіздік пен олқылықтар, сондай-ақ мұндай әрекеттердің субъективтік белгілерін анықтау барысында тергеу-сот практикасының қиындықтары анықталды. Мақалада ҚК-нің 172-бабының диспозициясын нақтылау және елімізден тыс жерлердегі қарулы қақтығыстарға қатысқаны үшін жауапкершілікке тартуды реттейтін нормаларды тәжірибеде қолдану жөніндегі ұсынымдарды қоса алғанда, Қазақстан Республикасының қылмыстық заңнамасын жетілдіру бойынша нақты ұсыныстар берілген.

**Негізгі сөздер:** қарулы қақтығыс, шетел мемлекеттері, қылмыстық жауапкершілік, қылмыстық-құқықтық мәселелер, криминологиялық мәселелер, қарсы іс-қимыл.

## СОВЕРШЕНСТВОВАНИЕ УГОЛОВНО-ПРАВОВЫХ МЕР БОРЬБЫ С УЧАСТИЕМ ГРАЖДАН РЕСПУБЛИКИ КАЗАХСТАН В ИНОСТРАННЫХ ВООРУЖЕННЫХ КОНФЛИКТАХ

### Аннотация

Настоящее исследование представляет собой одну из первых попыток комплексного анализа участия граждан РК в иностранных вооружённых конфликтах с позиции уголовного права и криминалистики. Цель статьи — комплексный уголовно-правовой и криминалистический анализ участия граждан Республики Казахстан в иностранных вооружённых конфликтах, выявление пробелов и проблем правового регулирования и правоприменительной практики, а также разработка научно обоснованных предложений по совершенствованию статьи 172 УК РК и повышению эффективности расследования и доказывания данных преступлений. В работе раскрываются пробелы в законодательстве, сложности при доказывании умысла и мотивации, а также проблемы практики расследования и судебного рассмотрения дел по статье 172 УК РК. Предлагаются новые подходы к квалификации, сбору доказательств и взаимодействию правоохранительных органов с международными структурами. Кроме того, проводится сравнительно-правовой анализ с зарубежной практикой, что позволяет обосновать предложения по совершенствованию отечественного законодательства. В результате проведённого исследования были выявлены уголовно-правовые и криминалистические проблемы, возникающие при квалификации, расследовании и доказывании фактов участия граждан Республики Казахстан в иностранных вооружённых конфликтах. Обнаружены пробелы и неясности в правовом регулировании, недостаточная определённость состава преступления, предусмотренного статьёй 172 УК РК, а также трудности, возникающие в следственно-судебной практике при установлении умысла и иных субъективных признаков таких деяний.

Сформулированы конкретные предложения по совершенствованию уголовного законодательства Республики Казахстан, касающиеся уточнения диспозиции статьи 172 УК РК, а также рекомендаций по практическому применению норм, регламентирующих привлечение к ответственности за участие в вооружённых конфликтах за пределами страны.

**Ключевые слова:** вооружённый конфликт, иностранные государства, уголовная ответственность, уголовно-правовые проблемы, криминологические проблемы, противодействие.

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