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The role and place of local self-government in modern society

Abstract

Main problem: local self-government bodies are an integral mechanism of the foundation of a democratic state. In the modern system of public relations, one of the most important places is occupied by general economic relations, namely local self-government. Without a developed system of local self-government, legislative and real opportunities, it is very difficult to independently create market-democratic structures to solve economic, social, domestic, cultural and other issues at the local level.

Local self-government bodies are a special level of government, which combines two principles: public and state. In the practice of Constitutional and administrative law, it is important to determine the place and nature of local self-government and to establish balanced relations between State authorities and self-government bodies, on the one hand, with local representative offices and structures.

Purpose: to study the role and place of local self-government in modern society, to develop practical recommendations on the formation and prospects for the development of local authorities in Kazakhstan.

Methods: when writing an article, the following methods are used: description, analysis and synthesis, justification, logical modeling, system analysis, etc. When studying the formation of local self-government, as well as the functional management system, the method of structural and analytical analysis was used.

The results and their significance: the conclusions and recommendations obtained as a result of the conducted research can be used: in the practical activities of maslikhats and akimats of the Republic of Kazakhstan, civil servants; in the process of studying at courses in higher educational institutions, as well as for further general theoretical and applied research.

Keywords: local self-government bodies, akim, maslikhat, state power, civil society, local representative bodies.

Introduction

Over the years of independence, all public institutions of the country, including the Institute of local government, have undergone changes. At the previous stage, local government in the USSR, which included Kazakhstan, was implemented at the forms of Public Administration at the local level, the tasks of which were implemented within the framework of local councils of people's deputies. The participation of the population in the management of territories and settlements was limited to delegating their powers to elected representatives - Deputies of rural districts, District, City and regional councils. The election of people's deputies was carried out in accordance with the Constitution and the norms of Soviet law. It also reflected the rights and obligations of local councils within the political system of the allied state.

Since Kazakhstan gained independence, the state has been carrying out various reforms to effectively implement the institution of local self-government. An important role is played by the fact that the activities of local self-government bodies are aimed at improving the lives of citizens registered on the territory of Regions, maintains order in society, and solves certain tasks.

A new system of state and public administration is being formed in the Republic of Kazakhstan. Its main feature at the initial stage was the criticism of the Soviet heritage, the preservation of the traditions of ethatism, the understanding of taking into account the requirements of a large territory of a multiethnic state. The current stage of development of Kazakhstan is primarily associated with the policy of the current president aimed at creating an effective system of state and Local Government, ensuring public security and order. The reforms are carried out within the

framework of the policy of creating a single vertical of power, which involves, on the one hand, the creation of civil society institutions, and on the other - the strengthening of order.

The content of local government in the country fluctuates with the transformation of society through the influence of internal and external factors. These changes are occurring on a regular basis and will obviously cause some uncertainty. This leads to the modernization of elements of existing local government institutions. However, taking into account future changes, new challenges of a global, regional and national nature, it is necessary to move on a democratic basis to more effective mechanisms and methods of managing society at various levels of the state structure.

To study the theoretical and practical aspects of the role and place of local self-government in civil society, to develop directions for improving the further development of local authorities of our young state.

Materials and methods

The methodological basis, as well as research methods, have systemic, comparative-legal, actual-historical, sociological, structural-functional and other functions.

Results

The article discusses the concept of local self-government, the identification of differences between local self-government and the real weight of power. In the course of the organization of local self-government in Kazakhstan, monitoring was carried out in accordance with the powers of local authorities, ways and main directions of development were identified. The place and roles of local self-government in the basic society were studied; the course of distinguishing powers and forms of government between the levels of state power and local self-government bodies was analyzed.

In modern realities, local self-government as a whole occupies a special place in the system of economic and social relations, requiring complex solutions. When considering from a local point of view, it is necessary to consider the problems of self-government from a comprehensive point of view, which is the solution of legislative, economic, social, domestic and cultural problems.

The term "local self-government" is first found in the literature of the XIX century. Its interpretation is directly related to the concept of self-government. Russian economist of the XIX century A.I. Vasilchikov defines self-government as the participation of the population in the local internal management of their homeland. The author believes that this concept came to us from England and the United States, "their political power developed along with the freedom of the people". This means a special management order called Self government in English, which translates as "self-government" [1].

The concept of "local self-government" is in a state of constant understanding, since it reflects a complex socio-political and socio-economic phenomenon. Currently, many definitions of this concept have been formulated in the scientific literature. In particular, E.M. Koveshnikov argues that "one of the main problems in the formation of modern local authorities and modern society is the development of a scientifically substantiated interpretation and essence of local self-government in interconnection with the goals and objectives of state and Social Development" [2].

The economic theory of self-government also contradicts the state and the community, but the main activity of self-government bodies is purely economic activity. The most common is the state theory of self - government, which considers public administration as a type of Public Administration.

One of the representatives of this current, G. Yellinek, noted that "self-government is public administration through people who are not professional public officials, in contrast to the state bureaucracy, management through the stakeholders themselves" [3].

A supporter of this point of view was N. Lazarevsky, who wrote: "Local Self-Government is a decentralized state administration, in which the independence of local authorities is ensured by such a system of legal guarantees, which, creating the truth of decentralization, at the same time ensure the close connection of local government bodies with this region and its population" [4].

A well-known scientist of the 20s of the XX century L.A. Velikhov believed that local self-government should be defined as public administration of any activity created by electing authorized persons from the dominant group of the local population [5]. The Marxist concept of the role and place of self-government in public life lasted until the last days of Soviet power.

The European Charter of local self-government gives the following definition of Local Self-Government: "Local Self-Government is the right and real ability of local self - government bodies to regulate a significant part of Public Affairs and manage it within the framework of the law, on their own responsibility and in the interests of the local population" [6].

It should be noted that the charter, as an international treaty, an institution of modern democracy, is based on a compromise between the need to comply with the fundamental principles of local self-government and flexibility in relation to domestic legal, economic and other conditions for the functioning of the local self-government system in each state.

Thus, V.G. Ignatov defines local self-government as the organization of power in local lands, which provides for the independent solution of issues of local importance by the population [7]. By I.V. Vydrin and A.N. Kokotov, local self-government is understood as the process of managing lower territorial communities of the population, based on a reasonable combination of "representative institutions and institutions of direct democracy" [8]. According to A.A. Zamotaev's definition, Local Self-Government is "a kind of democracy that ensures the protection of the joint interests of citizens, arising from living in a particular local territory, the need and inevitability of neighboring interaction of the inhabitants of this territory" [9].

Other researchers consider local self-government, first of all, as a form of state power, the subject of this system is not as governing bodies created by the people themselves, but sometimes becomes a priority in relation to their Creator - the local community. The development of values and ideological trends of a person, the population is greatly influenced by local self-government. One of its main tasks is to change the psychology of people, form their abilities and independently solve important local problems with their tasks. These issues constitute a major part of the improvement of the country and civil society.

There are many economic, professional and technical problems in the reform of local self-government and its activities. The social activity of the population in local areas is very low, and the level of trust in local authorities among the population is low. Citizens increase daily to local authorities to solve their problems of a personal social and economic nature.

A special role is played by local self-government in the implementation of national projects for the development of important social spheres-health, education, housing construction and agriculture, since the mechanism of interaction between the population and the authorities is directly observed at the level of local education.

Today, the functioning of the local self-government system in the country is determined by articles 85-89 of the Constitution of the Republic of Kazakhstan, the law of the Republic of Kazakhstan "on local public administration in the Republic of Kazakhstan" adopted in January 2001, as well as laws on local self-government and other normative acts, regulations (charters).

The Constitution of the Republic of Kazakhstan requires local self-government, which can independently solve important issues of local residents (Article 89, Article 1) [10].

Law No. 148-II of January 23, 2001" on local public administration and self-government in the Republic of Kazakhstan " (with amendments and additions as of 17.01.2022) in Article 3 fixes the basis of Economic Thought, which means property assigned to municipal legal entities, locally owned; funds of local budgets; provided as additional property fixed in municipal property in accordance with the legislation of the Republic of Kazakhstan [11].

The formation of local self-government as a multi-stage and dynamic process associated with the development of state and civil society institutions was reflected in the concept of development of local self-government in the Republic of Kazakhstan, approved by the decree of the president of the Republic of Kazakhstan dated November 28, 2012 No. 438 [12].

In the course of the development of local self-government in the past 2013-2020, the following main results were implemented:

- 1) management organizations are organized, communities are formed according to the order of formation, the main procedures and powers for holding meetings in the course of work are regulated;
- 2) election of akims of cities of district significance, rural regions, maslikhats of cities;
- 3) local territorial councils of Astana, cities of Republican significance and regional cities are organized as advisory organizations to discuss and resolve issues of population under akimats;
- 4) annual meetings with the population were held, a report was published, planning the tasks and main directions of solving problems in the development of administrative - territorial units of akims of each level;
- 5) in the course of management, measures were implemented based on improving the institutional and economic foundations.

In the period from 2018 to 2020, a new level was introduced in the budget system in local rural regions. Rural akims formed their own budget, managing municipal property. This budget was

formed at the expense of taxes, payments and fines, income from municipal property, and subventions from a higher budget.

Some taxes, including taxes on Land, Transport, Property, personal income and other taxes paid by residents, began to remain in the rural district. Accordingly, citizens found out what their taxes were spent on. Today, local government revenues this width consists primarily of six tax revenues, payments and transfers from the higher budget.

According to the report of 2020, the revenues of the local self - government budget of the Republic of Kazakhstan amounted to more than 252 billion tenge, of which about 34 billion tenge or 13.4 % - own revenues and 218 billion tenge - transfers from the higher budget.

In addition, there was a decrease in personal income tax on the income of individuals subject to independent taxation, which is due to the introduction of a moratorium on the payment of income tax for small businesses from January 1, 2020.

As part of this transformational transition, a new local government body was created in Kazakhstan – the council.

The council is a fundamentally new institution that needs to rely on specific mechanisms that contribute to decision-making and control. It is important to give the management the right to adjust rates on individual local taxes within the established frameworks of Novella. In this regard, the council will make decisions based on the specific socio-economic situation in the village. That is, the council itself determines whether the highest fiscal revenues or the lower taxes are needed to attract business.

European Charter of local self-government the principle of constitutional autonomy of local self-government relies on the "three elephants", namely: a set of legal norms that guarantee its socio-political independence; its administrative and financial independence.

Article 9 of the charter financial resources of local self-government bodies “reveals the essence of such “financial independence”. This article of the charter emphasizes that it has the right to have sufficient own financial resources, which it can freely dispose of in the exercise of its powers within the framework of its National Economic Policy. At the same time, financial resources must be proportionate to the powers granted to them by the Constitution or law of the relevant country.

Discussion

The average budget of the rural district in the Republic of Kazakhstan is 107 million tenge. At the same time, there are significant discrepancies in the budgets of local self-government due to the population and the economy of rural districts. Thus, the minimum budget of local self-government is 2.8 million tenge, and the maximum is 2.5 billion tenge.

Some of the facilities, such as cultural houses, kindergartens, common use facilities (roads, streets, parks, squares, recreation areas, monuments, etc.) were transferred from the upper district level to the lower local property.

The budget of rural districts is approved by the district (city of regional significance) maslikhat after its approval by the local community meeting, and then executed by the Office of the Akim of the rural district.

At the meeting of the local community, the powers are assigned to manage municipal property, form a budget, check the costs of budget funds, draw up and approve a development program, as well as to accept the post of Akim of a rural district proposed by the district Akim and dismiss him from office.

Rural akims have the opportunity to use the land in a targeted manner, improve, green and ensure the life of rural districts, monitor and solve other problems. In general, akims of rural districts received various administrative fines.

The Akim of a rural district is an official of the corresponding district (city of regional significance) akimat in the same territory [13]. The Office of the village Akim develops and implements budget planning and execution, a program for the development of the rural region.

In this regard, during the implementation of the main changes, an independent budget based on the development of villages of Kazakhstan was introduced in accordance with step 98 of the National Plan "100 concrete steps". The implementation of these plans creates conditions for expanding the ability of akims to solve everyday problems and participate in the decision-making process of citizens aimed at developing their village and village (???). Personal budgets include improvement and landscaping of settlements of the population, water supply, implementation of preschool education and training, repair of roads, etc. it will meet the needs and effectively use budget funds for the necessary measures. In the end, this will improve the quality of life of people, create conditions and improve their appearance.

In the course of high-quality implementation of these measures, it will increase the standard of living and meet the needs of the population until 2025.

In conclusion, in the course of the implementation of the management process, the legal framework is gradually being formed.

The introduction of the legal framework is carried out primarily with the support of government organizations and public organizations. Based on the results of the study of the activities of local government in Kazakhstan, the following tools can be proposed aimed at the development of management, taking into account foreign experience.

First, the revision of the mechanism for electing rural mayors through the introduction and development of an electronic voting system. It should be noted that now in the world practice of foreign countries such as the United States, Great Britain, France, Malaysia, in the process of voting and holding elections in local and state government organizations, an electronic voting system is being actively introduced, which is one of the mechanisms for modernizing and holding "fair" elections in the local area.

Secondly, in order to strengthen the independence of rural mayors as heads of local self-government, we propose the following: a) transfer the right to nominate a candidate for mayor to public associations, including regional and local ones; b) transfer the right to nominate a candidate for mayor to meetings or gatherings of citizens; c) 1 % of voters-to nominate vertical support votes to all candidates for mayor; d) deprive the district mayor of the right to nominate a candidate for mayor of the village, since if the first three proposals are implemented, the candidates will not have a disadvantage.

Conclusion

According to the results of the study, it should be noted that local self-government is a political institution that occupies an indirect place between civil society and the state and ensures the implementation of direct and feedback links in the public administration system.

The process of forming a national model of local self-government in the Republic of Kazakhstan cannot be considered complete. Further steps of the state in this direction are necessary.

The analysis of management issues leads to the conclusion that, first of all, the civil and legal immaturity of the population, indiscretion in relations with power structures and the lack of effective mechanisms (not only declarations) that ensure the realization of their rights by citizens, the lack of a mechanism for attracting the general population to various forms. The bottom line is that for the further development of local self-government, it is necessary to use the most productive experience.

As part of the introduction of elections to mayors of districts and rural districts, it is required to create certain institutions at the level of villages, settlements and rural districts that can act as local representative bodies and represent the interests of citizens and the rural population. Analyzing some provisions of the European Charter of local self-government, he identified the need to develop a new model for the election of mayors of rural districts in the Republic of Kazakhstan. Now, in the world practice of foreign countries, such as the United States, Great Britain, France, Malaysia, in the process of voting and holding elections, an electronic voting system is being actively introduced in local and state government organizations. This model can also be used in Kazakhstan, as it is one of the main mechanisms for modernization and holding "fair" elections on the ground.

As a result of the measures proposed above, it is necessary to fully implement the development strategy and policy in the course of the development of local government. These measures will improve the system of interaction of state authorities with solving everyday problems of local residents. Its effective functioning allows us to ensure the following conditions: increasing the role of the population, its participation in the qualitative solution of problems of local importance; increasing the standard of living of the population at each stage, political stability; creating a developed civil society, which is the basis of the rule of law.

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Роль и место местного самоуправления в современном обществе

Органы местного самоуправления - неотъемлемый механизм устройства демократического государства. В современной системе общественных отношений одно из важнейших мест занимают общеэкономические отношения, а именно местное самоуправление. Без развитой системы местного самоуправления, законодательных и реальных возможностей очень сложно самостоятельно создавать рыночно-демократические структуры для решения экономических, социальных, бытовых, культурных и других вопросов на местном уровне. Органы местного самоуправления - это особый уровень власти, в котором сочетаются два принципа: общественный и государственный. В практике Конституционного и административного права важно определить место и характер местного самоуправления и установить сбалансированные отношения между органами государственной власти и органами самоуправления, с одной стороны, местными представительствами и структурами - с другой.

Цель статьи - изучение роли и места местного самоуправления в современном обществе, выработка практических рекомендаций по формированию и перспективам развития местных органов власти в Казахстане. При написании статьи используются такие методы, описание, анализ и синтез, обоснование, логическое моделирование и другие. При изучении формирования местного самоуправления, а также функциональной системы управления был использован метод структурно-аналитического анализа.

Выводы и рекомендации, полученные в результате проведенного исследования, могут быть использованы в практической деятельности маслихатов и акиматов Республики Казахстан, государственных служащих; в процессе обучения на курсах в высших учебных заведениях, а также в общетеоретических и прикладных исследованиях.

Ключевые слова: органы местного самоуправления, аким, маслихат, государственная власть, гражданское общество, местные представительные органы.

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Қазіргі қоғамдағы жергілікті өзін-өзі басқарудың рөлі мен орны

Жергілікті өзін-өзі басқару органдары - демократиялық мемлекеттің құрылымдық негізінің ажырамас тетігі. Бүгінгі таңда жалпы қоғамдық қатынастар жүйесінде және экономикалық қарым қатынастарда жергілікті өзін-өзі басқару жиі кездеседі. Бұл жүйе жеткілікті және сапалы деңгейде дамымаса, заңнамалық, қажетті мүмкіндіктер болмаса, жергілікті деңгейде экономикалық, әлеуметтік, тұрмыстық, мәдени және басқа мәселелерді шешу өте қиын болмақ. Жергілікті өзін-өзі басқару органдары - бұл биліктің ерекше деңгейі болып табылады, онда қоғамдық және мемлекеттік қағидаттары біріктіріледі. Конституциялық және әкімшілік құқықтың өзекті теориялық және тәжірибелік мәселелерінің ішінде жергілікті

өзін-өзі басқарудың орны мен рөлін айқындау және мемлекеттік билік органдары мен өзін-өзі басқару органдарының, бір жағынан, жергілікті өкілді және атқарушы құрылымдар мен институттардың теңгерімді өзара қарым-қатынасын бекіту аса маңызды мәнге ие болады.

Мақаланың мақсаты - қазіргі қоғамда жергілікті өзін-өзі басқарудың рөлі мен орнын зерделеу, Қазақстанда жергілікті билік органдарының дамудың болашақ көріністері мен құрылуы бойынша тәжірибелік нұсқаулықтар тұжырымдау. Мақаланы жазу барысында суреттеу, сараптама және жинақтау, негіздеу, қисынды модельдеу, жүйелік сараптау және т.б. тәсілдер қолданылды. Қазақстан Республикасының заңнамалық актілері мен нормативтік құжаттарын сараптау үшін жүйелік-талдағыш әдіс қолданылған. Жергілікті өзін-өзі басқарудың, сондай-ақ басқарудың функционалдық жүйесінің құрылуын зерделеуде құрылымдық-талдағыш сараптама тәсілі қолданылды.

Жүргізілген зерттеу нәтижесінде алынған тұжырымдар мен ұсынымдар: Қазақстан Республикасы мәслихаттары мен әкімдіктерінің, мемлекеттік қызметшілердің тәжірибелік қызметінде; жоғары оқу орындарындағы курстарда оқу үрдісінде, сондай-ақ одан әрі жалпы теориялық және қолданбалы зерттеулер үшін пайдаланылуы мүмкін.

Түйін сөздер: жергілікті өзін-өзі басқару органдары, әкім, мәслихат, мемлекеттік билік, азаматтық қоғам, жергілікті өкілді органдар.

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