

F.A. Yerzhanova, K.S. Mussilimova

*Ye.A. Buketov Karaganda State University, Kazakhstan
(E-mail: erzhanova_farida@mail.ru)*

Status of the members of election commissions: legislation, practice and international experience

In the article topical issues of legal status of electoral bodies of the Republic of Kazakhstan and their members are considered on the basis of studying and analyzing the current legislation of the Republic of Kazakhstan and foreign countries, scientific literature in the field of electoral law and the electoral process, the law enforcement practice of electoral campaigns. The central place is given to the study of the Constitutional Law of the Republic of Kazakhstan «On elections in the Republic of Kazakhstan» which enshrines the rights, duties, restrictions and liability of members of election commissions. A legal analysis of the changes and additions made to the Constitutional Law of the Republic of Kazakhstan «On elections in the Republic of Kazakhstan» is given, the purpose of which was to increase the professionalism of members of election commissions. The necessity of further development of the election legislation is established, proposals on amendments to the normative legal acts determining the status of members of election commissions are formulated. In the article foreign experience in regulating the status of electoral bodies with the aim of the possible use of certain provisions in the current legislation of the Republic of Kazakhstan is discussed. The main aims and the first improvement of the legal status of electoral bodies and their members are defined: increasement of the level of professionalism and independency of electoral commissions; ensurement of equal representation in the commissions of political parties; guaranteeing of transparency and accountability in the work of election commissions.

Keywords: Constitutional law of the Republic of Kazakhstan «On elections in the Republic of Kazakhstan», election commissions, member of election commission

Introduction

A confirmation of the general focus on the democratization of political processes was the introduction of amendments and additions to the Constitutional Law of the Republic of Kazakhstan «On elections in the Republic of Kazakhstan» [1] by the Constitutional Law of the Republic of Kazakhstan of June 29, 2018 No. 162-VI «On Amendments and Additions to Certain Constitutional Laws of the Republic of Kazakhstan» [2]. Constitutional legislation on elections went the way of liberalization and distance democratization of the electoral process in Kazakhstan. In accordance with these amendments, the status of electoral bodies was improved; the procedure for nominating candidates for deputies of maslikhats (local representative body) according to party lists was fixed. Important novels of 2018 are the abolition of district election commissions, as well as the introduction of the exercise of authority on a professional basis by two members of territorial election commissions. All this testifies to the fact that the electoral system of the Republic of Kazakhstan is built both taking into account the democratic traditions of our people, and taking into account world electoral practice, on the principles of international electoral standards and requirements for guarantees of the rights and freedoms of man and citizen.

Methods and materials

In researching the topic of a scientific article, the following methods were used: historical, comparative and legal, logical and legal, system and structural and also special legal methods of interpretation of legal norms.

Results

Analysis of the Kazakhstan electoral legislation shows that, according to the Article 10 of the Constitutional Law of the Republic of Kazakhstan from September 28, 1995 № 2464 «On elections in the Republic of Kazakhstan» the elections carried out a uniform system of electoral bodies: the Central Election Commission (CEC), territorial election commissions (TECs) and Precinct Election Commissions (PECs) [1].

We believe that clarification of the legal status of election commissions and members of election commissions working on a full-time basis, increasing the level of professionalism and independence of election commissions, as well as ensuring equal representation in the composition of commissions of political parties;

ensuring transparency and accountability in the work of election commissions are important components of free democratic elections.

Fundamental changes in the electoral legislation highlight new topical issues of the legal status of members of election commissions.

The legal status of members of election commissions is governed by Article 19 of the Constitutional law of the Republic of Kazakhstan «On elections in the Republic of Kazakhstan», the Regulation on the «Central Election Commission of the Republic of Kazakhstan», approved by the Decree of the President of the Republic of Kazakhstan, provisions on territorial and precinct election commissions, approved by maslikhats of regions.

The structure of the legal status of members of election commissions includes rights, obligations, guarantees, restrictions and liability. Given the scale of the territorial election commissions distinguish norms of legislation, relating to:

- 1) members of election commissions of all levels;
- 2) members of the CEC of the Republic of Kazakhstan;
- 3) territorial election commissions;
- 4) precinct election commissions.

According to the Article 19 paragraph 1 Constitutional law of the Republic of Kazakhstan «On elections in the Republic of Kazakhstan» members of election commissions are representatives of state bodies and are under state protection [1].

The legal status of members of election commissions is determined by the Constitution, this Constitutional law and other legislative acts of the Republic of Kazakhstan.

According to paragraph 2-1 of the Article may not be a member of election commissions: a person who has a criminal record, which is not paid off or not removed in accordance with the procedure established by law; legally incapable person or partially capable [1].

Since the members of election commissions are representatives of state bodies and are under the protection of the state, it is necessary, in our opinion, to expand the list of restrictions on candidates for positions of a member of the election commission. The additional restrictions proposed below, set forth in the Law of the Republic of Kazakhstan «On state service of the Republic of Kazakhstan» [3], will ensure a more careful, comprehensive and objective approach to candidates for election commission members, preventing people prone to wrongdoing and (or) having a criminal past.

In accordance with paragraph 3 of Article 16 of the Law of the Republic of Kazakhstan «On state service of the Republic of Kazakhstan» [3], a citizen cannot be admitted to the civil service:

- 1) committed a corruption offense;
- 2) in respect of which for three years before being appointed to the composition of the election commission for criminal offense or crimes of minor and moderate gravity, the court convicted, or who was exempted from criminal responsibility for criminal offense or minor and moderate crimes on the basis of paragraphs 3), 4), 9), 10) and 12) of the first part of Article 35 or Article 36 of the Criminal Procedure Code of the Republic of Kazakhstan;
- 3) previously tried or exemption from criminal responsibility for a crime on the basis of points 3), 4), 9), 10) and 12) of the first part of Article 35 or Article 36 of the Criminal Procedure Code of the Republic of Kazakhstan for committing grave or especially grave crimes;
- 4) committed a crime as part of a criminal group;
- 5) in respect of which the criminal case on a crime as part of a criminal group was terminated by the criminal investigating authority or the court on the basis of clauses 3), 4), 9), 10) and 12) of the first part of Article 35 or of Article 36 of the Criminal Procedure Code of the Republic of Kazakhstan before the expiration of the lower limit of the sentence of deprivation of liberty, provided for by the relevant article of the Special Part of the Criminal Code of the Republic of Kazakhstan [3]. We propose to add Article 19 paragraph 2-1 of the Constitutional law of the Republic of Kazakhstan «On elections in the Republic of Kazakhstan» with these provisions.

Chairman of the CEC of the Republic of Kazakhstan, assistants and councilors of the Chairman are state servants and are those restrictions which are not applied in accordance with the Law of the Republic of Kazakhstan «On state service». The point here is that the proposed restrictions are applied to members of territorial election commissions.

According to Article 19 paragraph 5 sub-paragraph 6 of the Constitutional law of the Republic of Kazakhstan «On elections in the Republic of Kazakhstan» a member of the election commission is obliged to

comply with the requirements of the Constitution, this Constitutional law and another legislation of the Republic of Kazakhstan, generally accepted ethical norms [1]. A Code of ethics for a member of the election commission should be developed and adopted.

According to the Constitutional law of the Republic of Kazakhstan «On elections in the Republic of Kazakhstan», the Chairman, members of the Central election commission, employees of its office, chairmen or their deputies, as well as secretaries of territorial election commissions exercise authority on a permanent professional basis [1].

Since the chairmen or their deputies, the secretaries of the territorial election commissions exercise their authority on a professional permanent basis, it would be advisable to give them the status of a civil servant with his definition in the appropriate group of categories of administrative positions in the Registry of Political and Administrative state employees.

Article 19 paragraph 7 of the Constitutional law of the Republic of Kazakhstan «On elections in the Republic of Kazakhstan» states that in the event of a repeated violation by a member of an election commission of official powers or the requirements of this Constitutional law, he is dismissed from his post by the maslikhat who formed the composition of this election commission [1]. It is necessary to clarify the definition of «repeatedly» and regulate the drain in the law release, it is contemplated that also, the possibility of an official investigation, pending maslikhat decision on the matter.

Article 19 paragraph 8 of the Constitutional law of the Republic of Kazakhstan «On elections in the Republic of Kazakhstan» establishes the obligation of a member of an election commission to ensure compliance with and protection of electoral rights and legal interests of citizens [1].

In order to record and analyze incoming appeals to state bodies, the Law of the Republic of Kazakhstan «On the procedure for considering appeals from individuals and legal entities» provides for the obligation of state bodies to submit information on appeals, that is, on proposals, statements, complaints, responses to statistical and special registration bodies and requests [4]. This kind of monitoring allows to monitor the status of work with citizens, to identify violations, to prosecute the guilty officials. However, as practice shows, territorial and precinct commissions do not provide this kind of information, since the Law of the Republic of Kazakhstan «On the procedure for considering appeals from individuals and legal entities» [4] does not extend to them.

In order to take into account and analyze incoming appeals to election commissions and, first of all, complaints of citizens and public associations, it is necessary to establish in the Constitutional law of the Republic of Kazakhstan «On elections in the Republic of Kazakhstan» a provision that citizens' appeals on issues of implementation of the right to vote, received by all election commissions. Through this accounting, you can create a complete and objective picture of all appeals, identify the nature and dynamics of violations of citizens' electoral rights. The data of these reports would be an objective and complete picture of the nature and number of violations of electoral rights, and, consequently, the quality of the powers exercised by members of territorial and precinct election commissions to enforce and protect electoral rights and legitimate interests of citizens.

Article 49 of the Constitutional law of the Republic of Kazakhstan «On elections in the Republic of Kazakhstan» should establish the obligation of election commissions to ensure an objective, comprehensive and timely consideration of appeals from individuals and legal entities, if necessary with their participation; inform individuals and legal entities about the decisions taken in writing or in the form of an electronic document.

The composition of election commissions, in our opinion, should include equally representatives of all political parties, including opposition ones, to ensure a broader, truly liberal representation of parties in election commissions, to guarantee the independence of commissions.

There is a necessity to reform of Kazakhstani election legislation, in particular, to change the order of formation of election commissions with the participation of all parties involved in the election of political parties. It would be legislatively to expand the quantitative composition of election commissions, the number of commission members should not be less than the number of registered political parties.

As an additional guarantee of the independence of election commissions, it is possible to establish a clause stating that state employees cannot constitute more than one-second of the total number of members of an election commission.

It would be advisable to establish the possibility of applying the responsibility of election commissions by disbanding them in the event of such violation of citizens' electoral rights, which resulted in invalidation of the voting results in the relevant territory or the election results as a whole.

In order to modernize election commissions in Kazakhstan, it is possible to envisage the creation of a system of permanently operating precinct election commissions.

In terms of ensuring re-representation of the party when replacing the relevant members of the commissions, it is possible to envisage the formation of a reserve among the candidates proposed to the precinct election commission, but not nominated by the commission members. The appointment of a new member of the precinct election commission in place of the retired will be made from this reserve. Such a mechanism also allows for the training of personnel reserve of election commissions in a broad sense.

In order to provide greater organizational transparency and soundness, the mechanism for forming the composition of election commissions requires further improvement. It would be possible to introduce the institution of a deputy member of an election commission (electoral body), which makes it possible to impart a continuous nature to the work of the commissions, as well as to conduct purposeful work on training and raising the professional qualifications of the members of the commissions.

In order to guarantee the impartiality of the activities of members of election commissions, it is possible to establish the requirement to suspend membership in a political party or another public association pursuing political goals of a person who is a member of election commission.

As guarantees ensuring objectivity in the organization and conduct of elections, it is possible to introduce a legislative restriction on the inclusion of certain categories of persons in the composition of election commissions: proxies of candidates, candidates for deputies, deputies.

In order to ensure an objective process of the elections the right to present candidates for a member of the election commission of the subjects could be given, whose activities are not of a political nature.

Election commissions, as bodies at the center of the organization of the electoral process, traditionally attract close attention of the media, political parties, human rights organizations and other civil society institutions. The order of formation of election commissions, the level of party representation in their structure is also traditionally associated with issues of objectivity, impartiality of the conduct of elections, the guarantee of obtaining consistent and reliable data on the voting results. International acts affecting the organization of elections, orient the member states to create a system of separate electoral bodies that meet the requirements of professionalism and impartiality, which can be achieved through their formation:

- by specially trained professional staff;
- providing them with a representation of the acting political forces;
- strict ensure of the principles of transparency and accountability in the work of election commissions.

Professionalism of the higher echelons of the system is laid down in the legal guarantees of activity of Central Election Commission of the Republic of Kazakhstan (hereinafter – the CEC of the RK) as a state body of the RK, territorial and precinct election commissions as state bodies, as well as in organizing the activities of the Chairman, members of the CEC of the RK, staff of its office, chairmen or their deputies, and secretaries of territorial election commissions in professional (staff) basis.

The main tendency to improve the legal status of members of election commissions should be to increase their professionalism. This will make it possible to effectively organize the electoral process, eliminate violations during the electoral campaign, and thereby ensure the realization of citizens' electoral rights.

One of the priorities of the CEC work currently being implemented, this electoral training is an increase in the professional training of election commission personnel and other participants in the electoral process.

In accordance with the latest amendments made on June 29, 2018 in the Constitutional Law of the Republic of Kazakhstan «On elections in the Republic of Kazakhstan», the powers of the Central Election Commission of the Republic of Kazakhstan, territorial and district election commissions were supplemented with the function of «organizing and conducting training for participants in the electoral process, as well as conducting seminars with representatives of political parties and other participants in the electoral process to organize and conduct elections» [1].

At the office of the CEC of the Republic of Kazakhstan a Department for the organization of electoral education has created, the main tasks of which are issues of enhancing the electoral and legal culture of participants in the electoral process, as well as coordination and organization of work in the field of electoral education. Since 2018, the CEC pilot project on electoral training of participants in the electoral process has been launched and is being successfully implemented.

The principles of electoral education are: mass character; availability; continuity; introduction of modern information technology.

As the pilot sites of the electoral training were involved in the structure, a part of the Academy of Public Administration (National School of Public Policy, Institute of additional education of civil servants, Center for the Study of inter-ethnic and inter-confessional relations in the Central Asian region), Regional Center for professional development of civil servants at the akim (local governor) of the region as well as the School of political management of «Nur Otan» party.

Training is carried out in the form of periodic training seminars on the basis of the Academy of Public Administration, its regional centers. The first positive feedback was received, which showed the interest of students in learning. In October 2017, a training workshop was held to train 150 trainers of electoral education for all regions of the country. Within its framework, the coaching corps has been professionally trained on the features of the organization of electoral processes so that, upon returning to their regions, they can continue further training of members of election commissions and other organizers of the electoral process.

The CEC of the Republic of Kazakhstan worked steps for further development of a pilot project. There is a developed program of distance learning and testing by the Decree of the CEC of the Republic of Kazakhstan, dated by February 21, 2019, training and methodological complexes were approved in order to train members of territorial and district election commissions on the basics of electoral legislation and on the specifics of the organization of the electoral process during the election of the President of the Republic of Kazakhstan and deputies of the Parliament of the Republic of Kazakhstan. It is important that the renewal and increase of professional level pass through the entire structure of the electoral system, from the central electoral body to each polling station commission. Modern challenges and public demands for elections require that members of the CEC of the Republic of Kazakhstan, employees of the CEC of the Republic of Kazakhstan staff, members of territorial and district election commissions met modern requirements for professionalism.

The introduction of modern innovative technologies should also become an important component in electoral education and improving the legal culture of voters, taking into account the peculiarities of the perception of information by young citizens. The CEC of the Republic of people of Kazakhstan working to modernize the website to the level of a full-fledged portal with developed interactive functions, which will become a single information and communication platform that brings together web resources of territorial election commissions. In the future, as the development of a new direction, the organization of electoral education develops plans for the development of the CEC of the Republic of Kazakhstan website as an interactive tool for distance education and a source of basic information and training resources in the electoral field.

The results of the recent electoral campaigns show a decrease in the number of complaints, an increase in the electoral activity of the population and the level of citizens' confidence in the activities of electoral bodies. This indicates an increase in the professionalism of members of election commissions.

During the June 28, 2017 elections of deputies of the Senate of Parliament, as well as the elections of akims of cities of district significance, rural districts, towns and villages of the Republic of Kazakhstan that are not part of the rural district during the period from August 4 to August 24, 2017 in 14 regions of the republic, the election campaign was organized by the district of nonprofit organizations of the Republic of Kazakhstan in accordance with current legislation is enforced and received high marks from observers of political parties and other public associations, observers from foreign states and international organizations, representatives of foreign media.

During the election campaign, no complaints or violations of the election legislation were revealed.

In foreign countries, as a rule, the leadership or the entire composition of electoral bodies is replaced by the position of certain officials of the state apparatus. For example, in Belgium, the chairman of the lower territorial election commission in parliamentary elections is ex-officio the chair of the court of first instance or the magistrate. In Germany, the electoral bodies of each level include the relevant election leader (usually an official of the ministry of internal affairs) and an electoral commission under his leadership, often appointed among voters.

Election bodies of foreign countries can be formed by courts, government, higher election commissions. Members of these commissions are considered as officials, although in some countries, like in Germany, some of them work on a voluntary basis. According to paragraph 10 of the Federal law «On elections to the Bundestag» of 1975 election commissions discuss and resolve issues at public meetings. Decisions are taken by majority vote, and according to paragraph 11 of this law, «all members of election commissions work for free. Public work is the responsibility of everyone who has the right to vote. It is possible to refuse it only for a particularly important reason». In many countries, for example, Spain, membership in the election commission is considered as payment public office.

The Central election commission is created by presidential decrees, resolutions of the parliament, the government, and less often by the Supreme Court. In Mexico, Germany, it is formed from the representatives of parties nominating candidates for elections, but it is headed by a government official who holds the position of chairman of the commission according to the position — Minister of Internal Affairs, head of the statistical department, etc. In India, Pakistan, central election commission consists entirely of permanent state servants.

In Mexico, the Federal election commission is headed by the State secretary (Minister) for internal affairs and includes one deputy and senator appointed by the relevant chamber of Parliament or its permanent commission, one authorized by each national political party (if the party is registered conditionally, the authorized has a deliberative vote) and appointed by the commission of the notary public, who is the secretary of the commission. Each representative of the parliament of Mexico and a political party has a deputy. The Mexican federal election commission appoints to the election commission for each state four commissioners (one of them is the chairman of the commission) and a secretary (one of the local notaries).

In many countries, the central election commission as a special body is not created, its role is performed by the Ministry of the interior (United Kingdom, Italy, France). In the USA there is no such commission and it is not replaced by any body. The issues of elections, including the federal authorities, are in charge of the states, although there are federal laws governing some parties, including the law on federal elections of 1972.

The territorial election commissions of the administrative-territorial units in a number of countries consist of officials acting on permanent basis.

Precinct election commissions are also formed differently. In many countries of anglo-saxon law there are no precinct election commissions. Their role is performed by «officials-registrars», district inspectors, who can hire temporary staff for technical work. However, at all levels, when issuing ballots, counting votes, determining the results of voting, there are representatives of candidates of political parties and the press.

In the Czech Republic, political parties, political movements and their coalitions that submitted lists for elections to the Chamber of deputies or nominated their representative to register for elections to the Senate, nominate their members for election commissions, of which any voter can be a member.

In terms of improving the legal status of election commissions and their members, it is also useful to study the experience of Russia. Russian legislation contains regulations aimed at ensuring equal representation of political parties in election commissions. Russian legislation contains regulations aimed at ensuring equal representation of political parties, participating in elections, in election commissions, as well as guaranteeing the independence of the electoral commissions. Federal law of Russian Federation «On basic guarantees of electoral rights and the right to participate in the referendum of citizens of the Russian Federation» [5] (hereinafter — the Law of the Russian Federation «On basic guarantees of electoral rights»), Article 22, paragraph 4, establishes the rule that no more than one committee member with a decisive vote may be appointed to the election commission, at the suggestion of each political party, each electoral association, or an other public association.

The next guarantee of the independence of election commissions is the provision stipulated by the Law of the Russian Federation «On basic guarantees of electoral rights» (Article 22, paragraph 5) that only not more than half of the members of election commissions of constituent entities of the Russian Federation, election commissions of municipal formation, district election commissions, territorial and precinct election commissions may be state and municipal officials [5].

Electoral legislation of Russia establishes the responsibility of election commissions of constituent entities of the Federation, district, territorial, precinct commissions, in case of such violation of citizens' electoral rights, which resulted in invalidation of the voting results in the relevant territory or the election results as a whole. The form of such responsibility is their disbandment. The court makes a decision on disbanding the election commission at the request of deputies of the legislative body of the appropriate level, and in relation to the election commission of a subject of the Federation — at the request of the Central Election Commission. In 2012, a system of permanent election commissions was established at the level of precinct election commission in the Russian Federation. Precinct election commissions are formed for a period of five years by territorial election commissions.

Russian electoral legislation also provides for the possibility of replacing members of election commissions from the reserve, while maintaining the representation of the party in the election commissions. The laws of the Russian Federation «On political parties», «On basic guarantees of electoral rights» envisages the creation of election commissions of the subjects of the Russian Federation reserve of candidates that have been proposed to be constituted in precinct election commission, but have not been assigned to as a member

of these commissions. The appointment of new members of the precinct election commission from this reserve allows, in addition, to ensure the training of personnel composition of election commissions.

In the Law of Russian Federation «On basic guarantees of electoral rights» (Article 22) provided uniform conditions of formation of election commissions of the Russian Federation, election commissions of municipalities, the district election commissions, territorial and precinct election commissions: set single procedure for the formation, providing a democracy this procedure, parity participation in it of the state legislative and executive bodies, the active participation of public associations, local authorities, assembly of voters [5].

Further. In order to give greater organizational transparency and justification in some foreign countries to apply the institute deputy member of the election commission. For example, in Mexico, the election commission includes representatives from national political parties and deputies of all representatives that allows us to give not only the continuity of work of the commissions, but also to the purposeful work on training and improvement of professional qualification commission members [6; 41].

The electoral legislation of a number of CIS countries contains rules ensuring objectivity in the organization and conduct of elections. For example, as a guarantee to ensure objectivity in the organization and conduct of elections, one can consider a legislative restriction on the inclusion of certain categories of people in the composition of election commissions: proxies of candidates, candidates for deputies, deputies (Republic of Belarus).

In terms of guaranteeing the impartiality of the activities of members of election commissions, there is a requirement to suspend membership in a political party or another public association that pursues political goals of a person who is a member of this or that election commission (Republic of Belarus).

In order to ensure an objective electoral process, candidates who are members of election commissions may be subjects whose activities are not of a political nature. Thus, in the Republic of Armenia, the Defender of human rights and the chairman of the chamber of lawyers of the Republic of Armenia, as well as the chairman of the republican court of cassation, offer members of the Central election commission.

Discussion

Problems related to the legal status of election commissions and their members are considered by Kazakhstan and foreign legal scholars. In the scientific literature the formation and functioning of election commissions, their competence are analyzed.

Describing the legal status of election commissions, professor E.B. Mukhamedzhanov noted that, «if election commissions are something like a jury or volunteers, then the approach to their formation, regulation of activity should be completely different. With this approach, it is necessary to abandon the concept of a unified system of election commissions from appealing against the actions and decisions of the commissions absolutely nothing, including competence, is any different. Although in the Constitutional Law election commissions are called government bodies, yet they very much looks like a group of volunteers approved by a certain state body and acting absolutely irresponsibly [7; 54].

Other authors emphasize that members of all political parties should equally be members of election commissions [8; 7]. At the same time, the problem of guaranteeing all political parties equal representation in election commissions is particularly noted in the literature. One of the reasons for this problem is the statutory quantitative composition of election commissions. In this regard, professor M.A. Sarsembaev points to the impossibility of ensuring equal representation of parties in election commissions because «the number of vacancies in an election commission is 7, and the number of political parties in Kazakhstan is 10. Whatever we do, the inevitable would be, that three parties simply can not be represented in the selectivity of the commission» [9; 108].

To solve the problem of equal representation of political parties, the authors propose to represent the party evenly on election commissions at the level of chairmen and secretaries of commissions [9; 108], or, using the Russian experience, include among the members of election commissions one representative from a running candidate [10; 158].

Similar problems of ensuring equal participation of all political parties in the organization and activities of election commissions are also considered by Russian legal scholars. Thus, they note that «the stipulated procedure for the participation of parties in the formation of election commissions puts them in obviously unequal conditions», since the country experienced a «multiple increase in the number of political parties», which makes it difficult to fulfill the requirement of the Russian Federation law «On basic guarantees of electoral rights» on compulsory appointment to the election commission of at least half of its members on the

basis of proposals of political parties, whose lists of candidates are allowed for the distribution of deputy mandates in the State Duma, the legislative body of the Federation, the representative body of local self-government [11; 37].

In our opinion, the mechanism for forming the composition of election commissions requires further improvement. The directions of reforming the legislation of the Republic of Kazakhstan on elections may be as follows. First, changing the order of formation of election commissions in order to ensure the membership of all political parties participating in the elections; secondly, giving them the right not only of an advisory, but also of a decisive vote; thirdly, the creation of a system of permanent election commissions.

Conclusions

In the process of studying and analyzing the current legislation of the Republic of Kazakhstan and foreign countries, scientific literature in the field of electoral law and the electoral process, the law enforcement practice of electoral campaigns obtained the following results.

At present, the Republic of Kazakhstan created a solid legal foundation, which regulates the status of members of election commissions at all levels. It takes the central place in it, corresponding to the principle of the priority of the rights and freedoms of man and citizen, international electoral standards, the Constitutional law of the Republic of Kazakhstan «On elections in the Republic of Kazakhstan», enshrined in the Constitution of the Republic of Kazakhstan.

Law enforcement practice of recent election campaigns shows that the electoral authorities of the Republic of Kazakhstan realize its activities with a view to the full provision of the electoral rights of citizens on the basis of legality and professionalism.

The dynamic of the development of the electoral legislation of the Republic of Kazakhstan, the deepening of democratic reforms actualize the need to further improve the legal status of electoral bodies and their members.

The main directions for improving the legal status of election bodies and their members should be to increase the level of professionalism and independence of election commissions, as well as to ensure equal representation in the composition of commissions of political parties; ensuring transparency and accountability in the work of election commissions.

Amendments and additions have been made to the Constitutional law of the Republic of Kazakhstan «On elections in the Republic of Kazakhstan» aimed at enhancing the professionalization of members of election commissions, creating equal conditions for the representation of various political parties, introducing modern information technologies into the electoral process in order to ensure its transparency and accountability.

At present, in the Republic of Kazakhstan, organizational and legal frameworks have been created for the implementation of various forms of electoral training of personnel of election commissions.

The need for further development of electoral legislation has become necessary; proposals have been made for amending the regulatory legal acts defining the rights, duties, restrictions and responsibilities of members of election commissions.

It is worthwhile to carefully study the foreign experience in regulating the status of electoral bodies with a view to the possible use of certain provisions in the current legislation of the Republic of Kazakhstan.

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Ф.А. Ержанова, Қ.С. Мүсілімова

Сайлау комиссиясы мүшелерінің мәртебесі: заңнама, тәжірибе және халықаралық тәжірибе

Мақалада Қазақстан Республикасының және шетелдердің қолданыстағы заңнамасын, сайлау құқығы мен сайлау процесі саласындағы ғылыми әдебиетті, электоралды науқандардың құқық қолдану тәжірибесін зерделеу және талдау негізінде Қазақстан Республикасының сайлау органдары мен олардың мүшелерінің құқықтық мәртебесінің өзекті мәселелері қаралды. Орталық сайлау комиссиясы мүшелерінің құқықтарын, міндеттерін, шектеулерін және жауапкершілігін бекітетін «Қазақстан Республикасындағы сайлау туралы» Қазақстан Республикасының конституциялық заңын зерделеуге арналған. Сайлау комиссияларының мүшелерінің кәсібилігін арттыру мақсатында «Қазақстан Республикасындағы сайлау туралы» Қазақстан Республикасының Конституциялық заңына енгізілген өзгерістер мен толықтыруларға заңдық талдау жасалды. Сайлау заңнамасын одан әрі дамыту қажеттігі белгіленді, сайлау комиссиялары мүшелерінің мәртебесін айқындайтын нормативтік-құқықтық актілерге түзетулер енгізу бойынша ұсыныстар жасалды. Мақалада Қазақстан Республикасының қолданыстағы заңнамасында кейбір ережелерді ықтимал пайдалану мақсатында сайлау органдарының мәртебесін реттеудің шетелдік тәжірибесі қарастырылды. Сайлау органдарының және олардың мүшелерінің құқықтық мәртебесін жетілдірудің негізгі бағыттары ретінде сайлау комиссияларының кәсіпқойлығы мен тәуелсіздігі деңгейін арттыру; саяси партиялар комиссияларының құрамында тең өкілдікті қамтамасыз ету; сайлау комиссияларының қызметіндегі ашықтық пен есеп берушілікке кепілдік беру айқындалды.

Кілт сөздер: «Қазақстан Республикасындағы сайлау туралы» Қазақстан Республикасының Конституциялық заңы, сайлау комиссиялары, сайлау комиссиясының мүшесі.

Ф.А. Ержанова, К.С. Муслимова

Статус членов избирательных комиссий: законодательство, практика и зарубежный опыт

В статье на основе изучения и анализа действующего законодательства Республики Казахстан и зарубежных стран, научной литературы в области избирательного права и избирательного процесса, правоприменительной практики электоральных кампаний рассмотрены актуальные вопросы правового статуса избирательных органов Республики Казахстан и их членов. Центральное место отведено исследованию Конституционного закона Республики Казахстан «О выборах в Республике Казахстан», закрепляющего права, обязанности, ограничения и ответственность членов избирательных комиссий. Дан юридический анализ изменениям и дополнениям, внесенным в Конституционный закон Республики Казахстан «О выборах в Республике Казахстан», целью которых явилось повышение профессионализма членов избирательных комиссий. Установлена необходимость дальнейшего развития избирательного законодательства, сформулированы предложения по внесению поправок в нормативные правовые акты, определяющие статус членов избирательных комиссий. В статье рассмотрен зарубежный опыт регулирования статуса избирательных органов с целью возможного использования некоторых положений в действующем законодательстве Республики Казахстан. В качестве основных направлений совершенствования правового статуса избирательных органов и их членов определены: повышение уровня профессионализма и независимости избирательных комиссий; обеспечение равного представительства в составе комиссий политических партий; гарантирование прозрачности и подотчетности в деятельности избирательных комиссий.

Ключевые слова: Конституционный закон Республики Казахстан «О выборах в Республике Казахстан», избирательные комиссии, член избирательной комиссии.

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