
КОНСТИТУЦИЈАЛЫҚ ЖӘНЕ ХАЛЫҚАРАЛЫҚ ҚҰҚЫҚ КОНСТИТУЦИОННОЕ И МЕЖДУНАРОДНОЕ ПРАВО CONSTITUTIONAL AND INTERNATIONAL LAW

UDC 342.6(574)

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Some issues of ensuring the legal acts' validity of the executive bodies of the Republic of Kazakhstan

This article both analyzes the New Laws based on the Laws of the Republic of Kazakhstan «On Legal Acts», «On Administrative Procedures» and other legislations and considers the actual problems of ensuring the legal acts' validity of the executive bodies of the Republic of Kazakhstan. The authors examine the essence and significance of the requirements of legality imposed on legal acts of the executive bodies including the requirement to issue an act by the authorized body within the granted rights, the coordination of regulations' projects, state registration of executive bodies' regulations, legal monitoring of regulations. The article both deals with the issue of the connection between legality and administrative discretion and makes suggestions and recommendations on improving the legislation and law enforcement in the sphere of state administration.

Keywords: the Republic of Kazakhstan, Law of the Republic of Kazakhstan, legal acts, legality, administrative discretion, executive bodies, legislation.

The management decisions should meet the following requirements at the state level according to the Message of the President of the Republic of Kazakhstan, the Leader of the Nation Nursultan Abishevich Nazarbayev, to the People of Kazakhstan «Kazakhstan-2050 Strategy: New policy of the state» as follows:

- taking into account both short-term and long-term results;
- taking into account the multiplicative effect of management decision;
- ensuring the rules of fair competition and freedom of enterprise;
- exclusion of dittology of civil servants' official duties and clear legislative regulation of their activities [1].

These program establishments clearly define the direction on improving the state administration system in the Republic of Kazakhstan. This directly relates to the legislation and law enforcement of the executive bodies. Legal acts, being as the most important form of implementing the tasks and functions of executive bodies, are the main instrument for the realization of large-scale tasks set for the society. This task is possible, subject to strict and universal adherence of one of the basic requirements for the implementation of executive activity, that is, legality in the process of development and law-making. The Concept of the Legal Policy of the Republic of Kazakhstan for 2010-2020 states that «the determination of an ambitious goal, that is, the entry to the number of the world's 30 most developed countries by 2050 for Kazakhstan, makes high demands on the national legal system, which must effectively ensure the policy on improving the quality of human life, society and consolidation of statehood» [2].

It implies the need for a radical improvement of the legislation and law enforcement of the executive bodies of the Republic of Kazakhstan within the administrative reform. The organizational and legal mechanism for ensuring the validity of legal acts of executive bodies should be aimed at the elimination of law violations in the process of their publication at removing from the legal field violations of the law in the process of their publication, ensuring the early and complete restoration of the rights and interests of citizens,

society and the state, the introduction of new management technologies, the improvement of standard-setting and administrative procedures.

During the years of independence, serious reforms have been implemented in the sphere of state administration aimed at updating and improving the legal basis of legislation and law enforcement. The Concept of Legal Policy of the Republic of Kazakhstan for the period 2010-2020, the Anti-Corruption Strategy of the Republic of Kazakhstan for the period 2015-2025 [3], the Laws of the Republic of Kazakhstan «On Regulatory Legal Acts», «On Administrative Procedures» was passed by the Decree of the President of the Republic of Kazakhstan which have made a strong legal foundation for the process of development and publication of legal acts, the implementation of administrative and organizational activities of the executive bodies. The Laws of the Republic of Kazakhstan «On Access to Information» [4] as well as «On Public Control» [5] were adopted according to the instructions of the Head of State. It regulates the whole complex of public relations connected with the procedure for the development, submission, discussion, adoption, registration, enactment, amendment, addition, termination, suspension and publication of legal acts [6]. Currently, a new version of the Law of the Republic of Kazakhstan «On Administrative Procedures» is being developed and adopted.

All this shows that the issues of developing and ensuring rationality, efficiency and validity of legal acts of executive bodies are constantly in the center of the legal policy of the state. Traditionally, much attention is paid to this problem in the works of such Kazakhstan scientists as: R.A. Podoprigora, E. Bopinanova, G.A. Alibayeva, K.T. Aitbayev and in studies of such foreign authors as: R.F. Vasilyev, N.G. Salishcheva, E.N. Kameneva, I. Deppe, T.I. Otcheskaya, Zh. Vedel, G. Breban, etc.

However, despite taken measures, there are still violations of legality in the process of preparation and publication of legal acts of the executive bodies. This is indicated in mass media, analytical studies of scientists, specialists and lawyers, complaints of citizens as well as in the materials given by regulatory and supervisory authorities.

Violations of the legality in the sphere of the state administration, taking into account the scope of executive bodies' activities, have an adverse affect on the level of implementation and protection of the rights and legitimate interests of citizens, undermine the authority and effectiveness of governmental authorities' work and directly create conditions for corruption.

This makes it necessary to improve the content and methods of functioning of the organizational and legal system to ensure legality at all stages of legislation and law enforcement activities of the executive bodies; to prevent, detect and remedy violations of the law; restore rights and legitimate interests of citizens, society and state; bring the guilty officials to justice. The validity of legal acts of executive bodies, first of all, depends on the accuracy and rigor of following the legislation and law enforcement procedures in the process of their preparation and publication. It should be noted that the Law of the Republic of Kazakhstan «On Legal Acts» serves as a clear foundation as it provides the meaning and features of legal acts, clearly describes the stages of their preparation and operations. The Article 49 of the Law of the Republic of Kazakhstan «On Legal Acts» determines that the legality of regulatory legal acts is ensured by:

- 1) bringing of regulatory legal act in line with the Constitution of the Republic of Kazakhstan and legislative acts;
- 2) suspension of the operation of regulatory legal act according to the established procedure;
- 3) implementing legal monitoring of regulatory legal acts;
- 4) review of compliance with the Constitution of the Republic of Kazakhstan and legislative acts in the state registration of regulatory legal acts [6].

Non-regulatory legal acts that are adopted on the basis of regulatory legal acts and for the purposes of their implementation, shouldn't also contradict the Constitution of the Republic of Kazakhstan, legislation and legal acts of superior state bodies.

In general, the organizational and legal mechanism on the implementation of these measures developed in the Republic of Kazakhstan, has shown its effectiveness. At the same time, the dynamics of the development of legislation and law enforcement practice in the sphere of state administration actualizes the need for scientific conception and analysis of innovations in a current legislation and the development of certain recommendations and proposals on improving the legislation and law enforcement activities of the executive bodies of the Republic of Kazakhstan.

The provisions of Article 4 of the Law of the Republic of Kazakhstan «On Legal Acts» are new laws about the system of legislation of the Republic of Kazakhstan and its integrity assurance. Let us recall, that in

the Law of the Republic of Kazakhstan «On Regulatory Legal Acts» that have lost its validity, the legislation was defined as a set of regulatory legal acts adopted in accordance with the established procedure [7].

The Law of the Republic of Kazakhstan «On Legal Acts» emphasizes the systemic nature of the legislation of the Republic of Kazakhstan at the top of which is the Constitution of the Republic of Kazakhstan. Legislative acts, other regulatory legal acts including regulatory resolutions of the Constitutional Council of the Republic of Kazakhstan and the Supreme Court of the Republic of Kazakhstan correspond to it.

The conditions for ensuring the integrity of legislative system of the Republic of Kazakhstan are:

1) compliance with the procedure for the adoption of regulatory legal acts, making amendments and additions to them, established by the Constitution of the Republic of Kazakhstan, legislative and other regulatory legal acts;

2) hierarchism of regulatory legal acts, enshrined in the Constitution of the Republic of Kazakhstan and the Law of the Republic of Kazakhstan «On Legal Acts»;

3) official publication of regulatory legal acts concerning the rights, freedoms and duties of citizens [6].

These provisions of the Law of the Republic of Kazakhstan «On Legal Acts» are extremely up-to-date for the sphere of functioning of the executive branch as, at first, legislation and law enforcement of the executive bodies affect a wide range of social relations, and secondly, it is very mobile.

The law science defined a set of requirements of legality imposed on legal acts of the executive bodies including:

the requirement to issue an act by the authorized body and within the limits of the granted rights (competence requirement);

the requirement to issue an act according to the law and its purposes;

compliance with the form of the act;

compliance with the procedure for issuing an act [8; 11-13].

The terms and order of practical implementation of these requirements are regulated thoroughly and in detail in the Law of the Republic of Kazakhstan «On Legal Acts». A number of aspects related to the rule-making process of the executive bodies and having some difficulties in practice have been further developed and specified in this law.

So, great importance in the process of implementation and making of legal acts of the executive bodies is given to the reconciliation of regulatory legal acts' drafts. According to the current legislation, drafts of regulatory legal acts must be coordinated with the authorities concerned. The legality of the future act depends on how well the coordination stage of regulatory legal act draft of the executive body has been carried out.

The legal significance of the coordination is in fact that, if it is not, the regulatory legal act of the executive body is illegal, since the procedure for its issuing will be violated. According to paragraph 2 of Article 38 of the Law of the Republic of Kazakhstan «On Legal Acts» the registration of regulatory legal acts is refused, if it is not agreed.

According to the Article 154 of the Law of the Republic of Kazakhstan «On Legal Acts» the central state local representative and executive bodies, through advisory board, direct a draft of regulatory legal act affecting the interests of private business to accredited associations of private enterprise and the National Chamber of Entrepreneurs of the Republic of Kazakhstan with mandatory application of explanatory note for getting a legal opinion including each subsequent approval of the project with the interested state bodies [6].

The rule on duty of central state bodies, local representative and executive bodies to send drafts of regulatory legal acts concerning the rights, freedoms and duties of citizens to Public Councils is a new legislation established in Article 20 of the Law of the Republic of Kazakhstan «On Legal Acts». This rule is aimed at enhancing the role of civil society institutions in drafting regulatory legal acts concerning the rights, freedoms and duties of citizens. The recommendations of Public Councils are a normative annex to the drafts of regulatory legal acts before they are adopted. The state body can take into account the recommendations of the Public Councils including the appropriate insertions and modifications to the text of regulatory legal acts. In case of disagreement with the recommendations of the Public Councils, the relevant state body sends a response justifying the reasons for disagreement, which is a normative annex to the draft of regulatory legal act before it is adopted.

The legal significance of this procedure is that if it is ignored, the legal act will not be valid and it will be refused the state registration.

An important aspect of improving the procedure for the development and adoption of regulatory legal acts of the executive bodies is the improvement of the state registration's mechanism of regulatory legal acts.

According to Article 44 of the Law of the Republic of Kazakhstan «On Legal Acts», the state registration of a regulatory legal act includes carrying out of legal examination for a rule of law in the act by the judicial authorities and making a decision on the need for its state registration, determination of compliance of a regulatory legal act with the legislation of the Republic of Kazakhstan and putting it on the Register of state registration of regulatory legal acts with assignment of the state registration number [6]. The stage of state registration of regulatory legal acts since its establishment in the legislation of the Republic of Kazakhstan has been repeatedly corrected. The need to register acts of central state as well as local representative and executive bodies was not contested. The main issue was to establish clearly the criteria for selecting regulatory legal acts to be registered in the legislation. This question often caused an ambiguous treatment and difficulties in practice. A positive aspect in regulating the institution of state registration of regulatory legal acts is that now the Law of the Republic of Kazakhstan «On Legal Acts» lists the causes, according to which, the state registration of regulatory legal acts is not made. Thus, according to part 2 of Article 44 of the Law of the Republic of Kazakhstan «On Legal Acts», state registration of regulatory legal acts does not apply to:

- 1) regulatory resolutions of the Constitutional Council of the Republic of Kazakhstan and the Supreme Court of the Republic of Kazakhstan;
- 2) regulatory legal acts regulating the interaction of authorized bodies with other state bodies and not applying to third parties;
- 3) regulatory legal acts defining the status and authorities of the state body;
- 4) regulatory legal acts establishing qualification requirements towards applicants (candidates) for holding public office and developed on the basis of standard qualification requirements;
- 5) regulatory legal acts containing state secrets [6].

These innovations will allow the judicial authorities to implement state registration of regulatory legal acts more quickly, since the law itself clearly specifies those types of acts that are not subject to registration. The additions in the mechanism of state registration are quite justified and logical, since it is intended to affect only those acts that affect the rights and duties of citizens, that is, having external influence. Thus, state registration will not apply to those regulatory legal acts that have, firstly, intra-organizational (intra-staff) significance and, secondly, that contain state secrets. Moreover, the list of reasons for refusal of the state registration of regulatory legal acts has been supplemented. Thus, when adopting a regulatory legal act relating to the freedoms and duties of citizens without any recommendations of the Public Council, except for cases stipulated by part 3 of paragraph 2 of Article 20 of the Law of the Republic of Kazakhstan, judicial authorities refuse to register such an act.

Its purpose is to assess and predict the effectiveness of legislation by identifying from the legal field obsolete, corruptogenic and inefficiently implemented legal rules that are contrary to the legislation of the Republic of Kazakhstan as well as the development of proposals and recommendations for its improvement. Among the undoubted advantages of legal monitoring is the effectiveness in identifying illegal or ineffective acts, the regularity of monitoring activities carried out, close collaboration with the institutions of civil society. Along with legal monitoring, the Law of the Republic of Kazakhstan «On Legal Acts» provides public monitoring of regulatory legal acts affecting the interests of private entrepreneurship conducted by the National Chamber of Entrepreneurs of the Republic of Kazakhstan.

One of the new Laws of the Republic of Kazakhstan «On Legal Acts» is the establishment of the procedure for using the analogy of statute and the analogy of law in Article 13. Part 4 of Article 13 states that the possibility of applying the analogy of statute and the analogy of law in relations governed by specific branches of legislation is determined by the relevant legislative acts [6]. The provisions of the Law of the Republic of Kazakhstan «On Legal Acts» about the analogy of statute and the analogy of law can not be applied to the rulemaking of executive bodies whose acts are among the subordinate laws intended to regulate social relations in public sphere.

Analyzing the rulemaking of the executive bodies, it should be emphasized that it excludes the possibility of issuing legal acts that are not within their competence. The competence of the executive bodies is established in the relevant regulatory legal acts. Moreover, Part 3 of Article 25 of the Law of the Republic of Kazakhstan «On Legal Acts» states that the adoption of regulatory legal act by an authorized body is allowed only in cases when the competence of the authorized body for the adoption of this act is directly stipulated by the legislation of the Republic of Kazakhstan [7].

Part 6 of Article 7 of the Law of the Republic of Kazakhstan «On Legal Acts» provides that regulatory legal orders are adopted by the heads of departments of central state bodies, subject to direct competence for their approval in regulatory legal acts of the state body whose structure includes the department and can not

affect the rights and freedom of a man and citizen [8]. It means that the executive bodies should strictly follow the requirements of the law on the need to issue legal acts only on matters directly related to their competence. As for non-regulatory legal acts that are adopted on the basis of and in compliance with the relevant regulatory legal acts, the requirement to comply with the competence is also of decisive importance. Non-regulatory legal acts should be adopted only by authorized bodies indicated in the Law of the Republic of Kazakhstan «On Legal Acts» and other regulatory legal acts.

The deviation from competence in issuing legal acts of the executive bodies is a gross and obvious violation of validity which requires their unconditional cancellation. In this regard, it is appropriate to recall that in legal science such acts are usually classified as void. The Law of the Republic of Kazakhstan «On Legal Acts» does not provide the division of defective acts into void and disputable ones, i.e. any act containing certain violations, including such obvious ones as deviation from competence, is contested. We think that the standards of nullity should not be too vague but they must be precisely and particularly specified in the law itself. It should be noted that in a current Law of the Republic of Kazakhstan «On Administrative Procedures» it is proposed to consider as void such an administrative decision which fully or partially contains a particularly significant defect (error), which, with a reasonable estimate of all the factors considered, is obvious [9]. Moreover, in part 2 of Article 53 of the legislation, the standards of nullity are listed: incompetence, ambiguity of the addressee of the act, focus on committing an administrative offense or a crime, inability to execute an act for actual reasons, non-adherence to form of the act. We emphasize that in this case we are talking about legal acts of individual application. We believe that such a broad understanding of the nullity of a legal act is impractical. It should be narrower and imply only the adoption of a legal act by an incompetent body.

Many aspects of administrative procedures related to the issuance of legal acts of individual application are regulated in the Law of the Republic of Kazakhstan «On Administrative Procedures». Among such innovations that have a significant law enforcement effect, it is necessary to include the possibility of suspending the action of an official, the execution of an act (decision) of a state body because of filing a complaint, established in Article 20-5 of the Law of the Republic of Kazakhstan «On Administrative Procedures» [10]. Suspension is an important guarantee because negative consequences of the execution of the challenged legal act can be prevented with the help of it. There are two versions for the possible suspension of the act: 1) in cases directly stipulated by the laws of the Republic of Kazakhstan, the filing of a complaint suspends the action of the official, the execution of an act (decision) being appealed by the state body; 2) at the discretion of a superior body (superior officer) who handles a claim.

One of the urgent matters of administrative and legal theory and practice is the matter concerning the ratio of the legality and administrative discretion. The sphere of state administration is quite dynamic which makes it necessary to take immediate decisions and to correct them due to changed circumstances. Therefore, in order to understand properly the principle of legality in the sphere of public administration, the matter concerning the ratio of the legality and discretion is important.

The legislation of both the Republic of Kazakhstan and other countries regulating activities in the sphere of public administration proceeds on the basis that the executive bodies and their officials in the process of legislation and law enforcement base themselves on the law but in many cases proceed from administrative discretion.

The need for discretionary powers of the executive bodies in administrative and legal science isn't in doubt. The main problem is the understanding of the ratio of legality and administrative discretion within the limits of administrative discretion, as going beyond discretionary powers can lead to violations of the law in the process of issuing legal acts and corruption risks.

The theoretical development in the administrative and legal doctrine of western countries, in particular in the FRG, contributed to the formation and development of the theory of free discretion. The German lawyer Krauthausen noted that «free discretion means administrative and legal actions committed according to personal responsibility and as an understanding of the rule of law» [11; 10]. The modern administrators of the Federal Republic of Germany, for example Forsthoff, define the «right» of free discretion in the same way [12; 74].

This means that free discretion is nothing more than giving the state bodies and their officials to operate free within the limits determined by law.

At the administrative discretion, according to V.N. Dubovitsky, a body or an official who carries out executive and administrative (management) activities, is given a choice (possibility, degree of freedom) for finding and adopting more useful and expedient decision and the commission or failure of this or that action [13; 10].

V.M. Manokhin identifies two types of administrative discretion:

1. discretion within the law, i.e., when the public authority is given the opportunity to choose one of the options for conduct provided by the law;
2. discretion beyond the limits of rules of law, i.e., action of state bodies and officials not related to law [14; 25].

Kazakhstan famous scientist R.A. Podoprigora noted: «Giving free discretion is inevitable, since a legislator can not provide regulation for each specific case. In many cases, he can only establish some limits for action and provide administrating authorities with the appropriate powers without being able to prescribe in each situation whether the authorities should take any actions and how exactly they should act» [15; 76]. However, as the author emphasizes rightly, even within the limits of administrative discretion, violations of the law are inadmissible.

The current legislation, in particular the Law of the Republic of Kazakhstan «On Administrative Procedures», does not give any definition to the administrative discretion. We believe that this omission will be remedied after the adoption of the new Law «On Administrative Procedures». The introduction of the draft of the new Law of the Republic of Kazakhstan «On Administrative Procedures» that is being developed shows that discretionary power (discretion) is understood as the possibility of the authorized persons to make or not to make a decision, or to choose the decision option, its type and content [9]. In addition, the draft law specifies that if a legal act is adopted within the discretionary powers (discretion), the state body (official) must clearly and precisely justify the motives that guided them in the election of this particular decision option. Article 6 of the draft law which establishes the principle of equality in the implementation of administrative procedures in the activities of authorized persons, provides for the provision that if the authorized person acts within the discretion in a certain way, then in the future he undertakes to apply the discretionary powers in the same way. Only in the case of essential circumstances that are relevant to the circumstances of the case, the authorized person is not connected with the last discretionary power. In order to avoid violation of the principle of equality, it is necessary to adopt a special instruction to exercise discretionary powers (discretion).

It should be noted that the draft law provides the need for a precise and clear justification of the reasons for the decision made within the administrative discretion (art. 48). The conditions for the adoption of an administrative decision on the basis of discretionary powers (discretion) (art. 49) are defined and a provision is made that administrative appeal of acts and actions within discretionary powers is made from the standpoint of both legality and expediency as well (art. 62). These proposals in the legislation on administrative procedures are undoubtedly a positive phenomenon and tell about the desire of the legislator to give a proper administrative and procedural basis to discretion.

Administrative discretion is a necessary tool in the sphere of public administration. In order to prevent violations of the law in the process of executive bodies' activities, it is necessary to exclude corruptogenic factors that create for the law enforcement bodies unreasonably wide limits of administrative discretion or the possibility of using undetermined legal concepts or allowing unreasonable application of exceptions to general rules.

Thus, for example, the margin of appreciation, expressed in no time limits or uncertainty of time, conditions or grounds for adopting legal acts, the duplicative powers of the executive bodies allow, for example, violating review duration of appeals of natural persons and legal entities if it is put under control «till the final review and decision on it».

In the sphere of public administration, where the relations between the parties are based on the method of authority and hierarchy, the executive body that has the power to use his competence under the formula «right» makes a selective change of someone's rights by unreasonable establishment from the general procedure of exceptions for natural persons and legal entities at his discretion.

In many cases, disadvantages in a rule-making process lead to filling these gaps with administrative discretion. This is expressed in a large number of blanket or reference rules, the adoption of a regulatory legal act with a violation of the body's competence and filling the gaps in laws with the help of subordinate rulemaking beyond delegation of powers.

The imperfection of administrative procedures, its lack or incompleteness is also a convenient option for dishonest officials to create bureaucratic barriers for the realization of the rights and legitimate interests of citizens. Non-compliance with competitive and certification procedures, breach of public procurement procedure and bringing to disciplinary liability lead to unlawful consequences.

In many cases in the practice of public administration, administrative discretion outside the legal environment is expressed in the fact that when citizens' rights and interests are realized, uncertain, difficult or

chargeable requirements are imposed in the form of certificates, documents, for example, when realizing the right to conduct entrepreneurial activity, pension registration, licensure for land use, etc.

Indistinct position of the legislator concerning the use of unclear, ambiguous and evaluative categories may contribute to violations when issuing legal acts in the administrative discretion. For example, in the Code of the Republic of Kazakhstan «On Administrative Offenses» dated from January 30, 2001, as one of the grounds for exemption from administrative responsibility was the insignificance of offense. However, due to lack of a clear definition of this concept, there were often difficulties in the application of this article in practice. Therefore, it was excluded in the new Code of the Republic of Kazakhstan «On Administrative Offenses» dated from July 5, 2014.

Thus, summing up said above, we come to the conclusion that:

– the validity of legal acts of the executive bodies can be defined as a strict and steadfast compliance and proper application of the Constitution of the Republic of Kazakhstan, laws, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan, acts of superior agencies by the executive bodies in the process of legislation and law enforcement activities;

– validity supposes the need to implement laws in legal acts and actions of executive bodies, ensure its compliance by authorized state bodies using the control and supervision measures established in the legislation, appeal against illegal acts and actions by natural and legal persons;

– it is necessary to ensure strict observance of all requirements of validity brought in the process of development and issuance of legal acts of executive bodies established by law. It is advisable to develop and establish standards for void acts in the law;

– it is necessary to control the activities for the validity of legal acts of the executive bodies by civil society;

– it is important to strive to improve the organizational and legal mechanism for controlling the use of discretionary powers by the executive bodies.

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Қазақстан Республикасының атқарушы органдарының нормативтік құқықтық актілерінің заңдылығын қамтамасыз етудің кейбір сұрақтары

Мақалада Қазақстан Республикасының Заңдарын талдау негізінде «Құқықтық актілер туралы», «Әкімшілік рәсімдер туралы», өзге де нормативтік құқықтық актілердің заңнамадағы жаңалығы сараланды, Қазақстан Республикасының атқарушы органдарының құқықтық актілерінің заңдылығын қамтамасыз етудегі өзекті мәселелер қарастырылды. Авторлар атқарушы органның құқықтық актілерінің заңдылығын талап етуінің мағынасы мен мәнін айқындаған, соның ішінде өкілетті органның берілген құқықтары шегінде актіні жариялауды талап ету, нормативтік құқықтық актінің жобасы бойынша келісу, атқарушы органның нормативтік құқықтық актісін мемлекеттік тіркеу, нормативтік құқықтық актінің құқықтық мониторингі туралы. Сонымен қатар мақалада заңдылық пен әкімшілік қараудың арақатынасы туралы мәселе зерттелді. Мемлекеттік басқару саласында нормашығармашылық және құқық қолданушылық қызметін жетілдіру бойынша ұсыныстар мен ұсынымдар берілген.

Кілт сөздер: Қазақстан Республикасы, Қазақстан Республикасының Заңы, құқықтық актілер, заңдылық, әкімшілік қарау, атқарушы органдар, нормашығармашылық қызмет.

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Некоторые вопросы обеспечения законности правовых актов исполнительных органов Республики Казахстан

В статье на основе Законов Республики Казахстан «О правовых актах», «Об административных процедурах», иных нормативных актов проанализированы новеллы законодательства, рассмотрены актуальные проблемы обеспечения законности правовых актов исполнительных органов Республики Казахстан. Показаны сущность и значение требований законности, предъявляемых к правовым актам исполнительных органов, в числе которых требование об издании акта полномочным органом и в пределах предоставленных прав, согласование проектов нормативных правовых актов, государственная регистрация нормативных правовых актов исполнительных органов, правовой мониторинг нормативных правовых актов. Исследован вопрос о соотношении и административного усмотрения. Внесены предложения и рекомендации по совершенствованию нормотворческой и правоприменительной деятельности в сфере государственного управления.

Ключевые слова: Республика Казахстан, Закон Республики Казахстан, правовые акты, законность, административное усмотрение, исполнительные органы, нормотворческая деятельность.

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