



V.S. Issabekova¹ *, G.U. Balgimbekova² 

^{1,2} Karaganda Buketov University, Karaganda, Kazakhstan
(e-mail: visabekova@mail.ru, gbalgimbekova@mail.ru)

¹ORCID ID: 0009-0006-4430-9482

²ORCID ID: 0000-0003-4405-1339, ²Scopus Author ID: 57194527166

Interaction of the Commissioner for Human Rights with specialized ombudsmen in the Republic of Kazakhstan

The article discusses the problems of interaction between the Commissioner for Human Rights in the Republic of Kazakhstan and specialized ombudsmen. The study revealed the main shortcomings of the current legislation: the lack of a clear mechanism of coordination between ombudsman institutions; fragmentation of the system of registration of complaints; insufficient interaction with government agencies and fragmented reporting system. International practices were examined through a comparative study: countries such as Canada, Finland, the United Kingdom, Spain and the United Kingdom have a well-developed system of human rights protection and provide clear mechanisms for cooperation between ombudsmen. This includes legal regulation of the transfer of complaints, data exchange and joint inspections. After careful consideration, specific proposals have been made to amend the Law of the Republic of Kazakhstan “On the Ombudsman for Human Rights”. It is hereby proposed to amend the Law “On the Rights of the Child”, the Social Code, the Entrepreneurial Code of the Republic of Kazakhstan in order to improve the effectiveness of interaction between human rights institutions. In particular, the proposal is aimed at strengthening cooperation between ombudsmen, developing regulations for their joint inspections, introducing a mechanism for transferring appeals between them, as well as creating a single digital platform for automated review of complaints. The proposed changes are designed to increase transparency, improve accessibility and coordination of activities to protect the rights of citizens.

Keywords: Commissioner for Human Rights, specialized ombudsmen, human rights institutions, legal regulation, complaints, international experience, coordination, Kazakhstan.

Introduction

The institution of the Commissioner for Human Rights (hereinafter referred to as the Ombudsman) in the Republic of Kazakhstan plays an important role in protecting the rights and freedoms of citizens. Its activity is determined by the basic law of the Republic of Kazakhstan and other regulatory acts. In recent years, Kazakhstan has been developing a system of specialized ombudsmen, such as the Commissioner for the Rights of the Child and the Commissioner for the Protection of the Rights of Entrepreneurs.

With all the positive aspects regarding the activities of human rights institutions, there is a serious problem in the form of uncertainty around regulatory regulation of their interaction with the institution of the Ombudsman. Insufficient mechanisms for the transfer of complaints, the exchange of information and joint participation in the protection of rights can lead to a repetition of the functions of various bodies, shortcomings in guaranteeing the rights of citizens and inconsistency between institutions. The experience of other countries — Great Britain, Canada, Finland and Spain — indicates that the effective functioning of the ombudsman system requires a clear delineation of competencies and the development of coordination and interaction mechanisms.

The purpose of this study is to identify problems of interaction between the Commissioner for Human Rights in the Republic of Kazakhstan and specialized authorized ombudsmen and to propose legal methods for their solution.

In order to achieve this goal, we have identified the following tasks:

- Study the current laws of the Republic of Kazakhstan on the work of the Commissioner for Human Rights and specialized authorized ombudsmen.
- Study the experience of other countries in the work of ombudsmen and identify the most successful forms of their interaction.
- Identify the main problems in coordinating the activities of ombudsmen in Kazakhstan.

* Corresponding author's e-mail: visabekova@mail.ru

- Propose legislative improvements, taking into account mechanisms for the transmission of complaints, the exchange of information and the conduct of joint investigations

Disagreements in the concepts of this area of research may arise due to differences in theoretical approaches or research methodology.

The issue of coordinating the work of ombudsmen remains poorly understood in legal science. Traditional ideas about the independence of human rights institutions are faced with the need to unite them to effectively protect the rights of citizens.

The issues of determining the powers of the general and specialized ombudsmen are controversial in the methodology for their determination. At the international level (as, for example, in the countries of the European Union), there are various approaches: from granting full autonomy to specialized ombudsmen to their subordination to the chief ombudsman in Kazakhstan. Challenges in defining authority remains unresolved, which leads to legal uncertainty.

A study of scientific publications shows that the Russian legal literature does not pay enough attention to the issues of interaction between the Ombudsman and specialized ombudsmen. In Russian and foreign studies (works by Kalinina E.G. [1; 28], Shabanova Z.M. [2;25], issues of interaction between ombudsmen at the institutional level were considered; nevertheless, the adaptation of these models to the legal space of Kazakhstan requires further study.

Research on ombudsman interactions is largely based on foreign scientific literature. In the works of Hertz (2018) and Goodwin (2020), methods for coordinating the activities of ombudsman institutions in the countries of the European Union and the UK are considered. They include analysis of the exchange of complaints, digitalization of procedures for the protection of rights and control by parliament [3; 45].

However, there is research on various aspects of the regulation of the Ombudsman institution. For example, the work of Bashimov M.S. "Ombudsman Institute in the Republic of Kazakhstan and foreign countries (comparative legal analysis)" [4; 48]. Based on the study of literature, the author of the article comes to the conclusion about the importance of creating a comprehensive system of cooperation between ombudsmen in Kazakhstan, which would include legal, organizational and digital mechanisms.

One of the main problems of the study is the lack of clearly defined norms in Kazakhstani legislation to coordinate the activities of the Ombudsman and specialized ombudsmen. This leads to inconsistency in their work and the creation of gaps in the protection of citizens' rights. There is also duplication of functions and inefficient use of rights protection resources.

The development of rules for coordinating actions between ombudsmen will help get rid of these problems, speed up the processing of citizens' appeals and make human rights activities more open and understandable.

Methods and materials

The basic provisions on the protection of human rights and freedoms and the role of the Ombudsman are defined in the Fundamentals of Legislation and the Constitution of the Republic of Kazakhstan Article 83-1 enshrines the constitutional status of the national Ombudsman [5]. The Constitutional Law of the Republic of Kazakhstan "On the Commissioner for Human Rights" No. 154-VII of November 5, 2022 [6], establishes the status and key functions of the Ombudsman in Kazakhstan and determines the procedure for considering citizens' appeals. Nevertheless, the legislation of the country does not clearly establish norms for regulating the cooperation of the Ombudsman with other specialized organizations (for example, to protect the rights of children or entrepreneurs).

Examination of the legislation shows the need to revise and modernize individual laws governing the work of specialized ombudsmen. The regulations do not clearly define the mechanism for the transfer of complaints between the Ombudsman and specialized ombudsmen, which leads to the emergence of legal gaps in their activities.

An important guideline for the development of a system of interaction between ombudsmen in Kazakhstan is international norms governing the actions of national human rights institutions.

One of the most important international documents is the following:

The Paris Principles (1993) are a set of normative documents of UN General Assembly resolution 48/134, which aim to ensure the independence, competence and effectiveness of national institutions for the protection of human rights [7].

The Venetian Principles (2019) were endorsed by the European Commission for Democracy through Law (Venice Commission of the Council of Europe) [8]. They provide additional guarantees of the inde-

pendence of ombudsman structures, including their organizational autonomy, financing and procedural independence.

Recommendations submitted by the United Nations (UN), the Council of Europe and the OSCE include reports and analytical studies on the work of national institutions for the protection of human rights.

The following scientific approaches were applied in this article:

The study of comparative legal analysis made it possible to study the methods of interaction of state ombudsmen abroad and identify effective methods that can be applied in the Kazakh legal system.

We studied the laws and regulations of the ombudsmen in Kazakhstan in accordance with the constitution and legislation, as well as international standards in this area.

The analysis of the information in the reports was carried out by studying public sources — the annual reports of the Ombudsman and specialized authorities, statistical data and international reports.

The legal analysis method is used to assess compliance with current legislation and identify areas for clarification. The use of these methods made it possible to identify the main problems in organizing cooperation between ombudsmen in Kazakhstan and offer reasonable recommendations for their improvement.

Results

The institution of the Commissioner for Human Rights (hereinafter — the Ombudsman) is of great importance in the modern legal sphere of the Republic of Kazakhstan. This study analyzes and models various scenarios to identify the main problematic aspects of legislation and possible ways to improve them through forms of interaction. In researching the legislation, a gap was found in the current law on the position of the Human Rights Ombudsman. The current version of the law does not clearly define the interaction of the general Ombudsman with specialized structures. There are often situations when parents are faced with violations of their children's rights in educational institutions and are forced to appeal simultaneously to the "general" Ombudsman and other competent bodies. Violations may be reported to the Ombudsman and child specialists from unofficial sources, which leads to repeated consideration of the complaint, increasing bureaucratic procedures and making it more difficult to protect the rights of minors.

When a person faces a violation of their rights at work, including discrimination due to a disability, the complaint should first be directed to the relevant authority responsible for human rights protections. In many cases, a general ombudsman may handle such matters and, if necessary, forward them to a specialized body focused on the rights of persons with disabilities. However, the existing legislation does not provide a clear algorithm of action. A conversation with representatives of the Ombudsman would help to clarify the problems in practical terms: which body has the authority to consider a complaint in case of its "dual" nature?

We have considered in Table 1 the international experience of interaction of the Commissioner for Human Rights in the Republic of Kazakhstan with specialized ombudsmen.

Table 1

Comparative analysis

Criterion 1	Kazakhstan 2	Foreign experience (Spain, Canada, UK) 3
Legal framework	The Law "On the Ombudsman for Human Rights" does not contain separate norms on interaction with highly specialized ombudsmen.	There are no clear instructions on information exchange and joint consideration of appeals. In most countries there is a basic law on the Ombudsman along with by-laws or separate chapters regulating forms of cooperation. The norms on the transfer of complaints, joint inspections and the order of reports are specified.
Coordination mechanisms	There are no regulations for the coordination council of periodic meetings and interdepartmental working groups.	Ombudsman Councils are established, which meet regularly to discuss systemic problems. The procedure for adopting joint recommendations to legislators and authorities is regulated.
Statistics and database of appeals	There is no single integrated complaints database. Different forms of recording and reporting complicate the exchange of data between the Ombudsman and the specialized commissioners.	A single portal is often used, where citizens' appeals are received and automatically forwarded to the competent ombudsman's office. A standardized reporting system simplifies analysis and the development of recommendations.

Continuation of the table 2		
1	2	3
Citizen awareness	Low awareness of the powers of specialized Ombudsmen: citizens more often turn to the Ombudsman “out of habit” even in case of highly specialized complaints.	The functions of each ombudsman are widely explained on official websites and in the media. Hotlines and counseling centers operate.
Joint reports and parliamentary oversight	The annual report of the Ombudsman does not always include final information on the activities of specialized ombudsmen.	Regular practice of joint or parallel reports, where each ombudsman covers a different area, but there is a common section on problems and recommendations. Transparent system of presenting results to the parliament.

The most serious problem for the development of an effective system of interaction between ombudsmen in Kazakhstan is the lack of a legislative mechanism for coordination. There are no provisions in the national laws on the order of:

- transfer of information between the Ombudsman and specialized ombudsmen, allegations of violations of rules and regulations outside the competence of either institution. The legislation of the Republic of Kazakhstan contains a number of gaps regarding the interaction of the Ombudsman with specialized ombudsmen.

Article 9, paragraph 1, contains a provision that the Commissioner shall cooperate with the Commissioner for Children’s Rights in the Republic of Kazakhstan and other national human rights institutions, without specifying specific rules for coordination with other authorized persons [6].

The main problematic aspects are:

- There is no clear description of the procedures for filing complaints, conducting joint inspections and exchanging information.

- When considering complaints of violations in schools and the rights of children and persons with disabilities, difficulties arise in coordinating actions between different jurisdictions.

Act No. 345-II of 8 August 2002 on the rights of the child in the Republic of Kazakhstan. Article 7-1 of this law defines the duties of the Ombudsman for the Rights of the Child without specifying his interaction with the Ombudsman [9]. There is no system for automatically redirecting complaints between ombudsmen.

There is no clear distribution of responsibility for coordinating investigations into violations of children’s rights between different institutions.

Social Code of the Republic of Kazakhstan No. 193-VII dated April 20, 2023. Article 10-1 of the Social Code, as established by Law No. 115-VIII on July 5, 2024, delineates the authority of the Ombudsman concerning the safeguarding of rights for socially vulnerable groups, which encompasses individuals with disabilities [10]. Nevertheless, this article fails to delineate the mechanisms governing the interaction between the Ombudsman and other authorized individuals or governmental entities within this domain.

Consequently, the existing legal framework is deficient in that it does not provide clearly defined protocols for conducting joint inspections, nor does it establish an effective feedback mechanism between the Ombudsman and the Commissioner for the Rights of Persons with Disabilities. This could impede the efficient coordination of their efforts in safeguarding the rights of individuals with disabilities.

To enhance the efficacy of safeguarding the rights of individuals with disabilities, it is prudent to formulate and execute regulations that govern the collaboration among these institutions. This should encompass established procedures for joint inspections as well as a comprehensive complaints mechanism.

The Entrepreneurial Code of the Republic of Kazakhstan No. 375-V, enacted on October 29, 2015, defines the legal basis for the status and functions of the Commissioner for the Protection of Entrepreneurs’ Rights, popularly referred to as the Business Ombudsman. Chapter 28 of this Code is designated as “The Commissioner for the Protection of Entrepreneurs’ Rights of the Republic of Kazakhstan. Investment Ombudsman” [11].

The first paragraph of this chapter defines the legal status of the Commissioner for the Protection of Entrepreneurs’ Rights in Kazakhstan. In particular, Article 284 establishes that the appointment of the Commissioner is formalized by an order of the President of the Republic of Kazakhstan, and the Commissioner is accountable to the President. The National Chamber of Entrepreneurs guarantees oversight of his activities, and it is required that he refrains from engaging in political activities in the performance of his duties. The main duties of the Business Ombudsman include representing, protecting and defending the rights and legitimate interests of entrepreneurs, as well as considering their appeals.

It is important to note that the current version of the Entrepreneurial Code does not contain provisions regulating the relationship between the Business Ombudsman and the National Ombudsman responsible for human rights. The lack of clearly defined protocols governing the interaction between these institutions may lead to insufficient coordination of actions to protect business rights, especially when such violations overlap with more serious human rights issues.

The study of the experience of other countries shows that in many democratic legal systems (for example, Great Britain, Canada and Finland) there is a legislated mechanism of interaction between different ombudsmen.

In the UK, for example, the Parliamentary and Health Service Ombudsman Act (1967) regulates cooperation between ombudsmen in this area. It contains provisions for sending complaints between general and specialized ombudsmen. These mechanisms exclude re-examination of cases and establish procedures when a complaint is received against the activities of several human rights institutions [12].

Canadian law governs the interaction of various bodies with the Public Complaints and Review Commission Act (1988) [13]. According to Article 7 of this law, if a complaint arises about the activities of several ombudsmen at the same time, they are required to conduct a joint investigation and exchange the results of inspections. This method of coordination helps to avoid duplication of processes and ensures consistency of activities when dealing with complaints.

In Finland, Ombudsman activities are based on the Parliamentary Ombudsman Act (Finnish Parliamentary Ombudsman Act, 2002). Under Article 14, ombudsmen are required to prepare and submit a joint report to Parliament each year [14]. This document summarizes information on human rights violations identified by various relevant ombudsmen, and also contains general recommendations for improving legislation. This practice contributes to the transparency of the work of human rights institutions and helps contribute to effective interaction with state bodies.

The legislation of the Republic of Kazakhstan lacks such detailed norms and mechanisms for interaction between the Ombudsman and relevant commissioners. This leads to problems in the form of repetition of functions, slow resolution of complaints and insufficient coordination between human rights organizations. After analyzing foreign experience, it is proposed to make specific changes to the legislation of Kazakhstan to create a systematic legal framework for effective interaction between the Ombudsman's bodies and increase the level of protection of the rights and freedoms of citizens of the Republic of Kazakhstan.

This includes setting standards for joint inspections and coordinating requests to public authorities. It also provides for the development of a common policy for the protection of human rights.

Kazakhstani legislation lacks a similar mechanism, which leads to duplication of functions and makes it difficult to determine the competence of specific ombudsmen, which in turn creates uncertainty in law enforcement practice and slows down the response to citizens' appeals.

Another important problem is the fragmentation of the system for recording and processing citizens' appeals. Currently, complaints received by the Ombudsman and specialized authorized persons are registered separately in each department without creating a centralized database.

This fractured interaction within the organization has several negative consequences:

The lack of in-depth study of trends leads to the inability to identify common patterns of human rights violations in different areas, such as the intersection of business interests and workers' social guarantees.

Duplication of grievances arises due to the lack of a centralized system, leading to repeated handling of the same grievances by different organizations without proper coordination.

Other countries (e.g. Canada and Estonia) already use specialized digital platforms to receive complaints from citizens. These platforms automatically forward complaints to the relevant human rights bodies and services. The introduction of such a system in Kazakhstan could significantly speed up the processing of complaints and create an effective tool for analyzing human rights violations.

Specialized ombudspersons in Kazakhstan do not have a formal right to request information from the Ombudsman and do not participate in the development of legislative initiatives related to their area of work. Therefore, their role is often reduced to an advisory function, and their influence on the formation of state policy for the protection of human rights remains limited.

In foreign countries (France, Great Britain, Sweden) a clear system of parliamentary control over the activities of all ombudsmen has been established. They take part in working groups under the Parliament and can propose changes in legislation to protect the rights of citizens. An illustrative example can be found in Finland.

The absence of such a system in Kazakhstan makes it difficult to take into account the opinions of experienced specialists in the development of legislative acts.

Currently, the annual reports of specialized ombudsmen are created independently and are not always included in the general report of the ombudsman, which complicates the analysis of human rights violations and makes it difficult to develop unified recommendations for state bodies.

In international practice, a mechanism of generalized reporting on the work of ombudsmen is often used — when all their reports are collected in one document and then presented in parliament for discussion with the general public. For example, in countries such as Australia and Finland, the annual report combines information from all ombudsmen and contains general proposals to improve legislation.

Improving the legal regulation of interaction between the Ombudsman and specialized commissioners in Kazakhstan is a key step towards improving the effectiveness of the protection of human rights and freedoms. The following activities are proposed to address the identified legislative gaps and ensure coherence.

Initially, it is suggested to modify the Constitutional Law of the Republic of Kazakhstan titled “On the Commissioner for Human Rights” No. 154-VII, enacted on November 5, 2022 [6]. It is essential to enhance Article 9 of this legislation with explicit provisions that distinctly govern the collaboration between the Ombudsman and specialized commissioners. It is imperative to establish provisions for the transfer of complaints in alignment with the designated authority and to formalize the procedures for collaborative investigations and inspections. It is imperative that a comprehensive annual report detailing the activities of all ombudsmen be prepared and submitted on an annual basis to the Parliament of the Republic of Kazakhstan. This measure will facilitate the organization of the reporting process and reduce redundancy in the operations of human rights organizations.

Moreover, it is prudent to include a provision pertaining to collaboration with the National Ombudsman within the Law “On the Rights of the Child in the Republic of Kazakhstan” No. 345-II, dated August 8, 2002 [9], particularly in Article 7-2 which addresses the “Commissioner for the Rights of the Child”. This provision grants the Commissioner for Children’s Rights the authority to file appeals with the National Ombudsman, facilitating a comprehensive assessment from a broad human rights perspective. The proposed addition aims to clarify legal uncertainties and improve the effectiveness of responses to violations related to children’s rights.

Third, it is very important that Article 10-1 “Competence of the Ombudsman” of the Social Code of the Republic of Kazakhstan No. 193-VII of April 20, 2023 [11] is amended to include provisions that mandate the participation of the Commissioner for the Rights of Socially Vulnerable Populations in joint inspections with the Commissioner for Human Rights. This is particularly important to consider when looking at the appeals of disabled people as it has to do with the protection of their rights and freedoms. This modification will provide specific assistance and a holistic way of dealing with the complaints about the rights of persons with disabilities.

Fourth, the Entrepreneurial Code of the Republic of Kazakhstan No. 375-V of October 29, 2015 [12] also defines the responsibilities and functions of the Commissioner for the Protection of Entrepreneurs’ Rights in Chapter 28. It is advisable to include a provision that allows the Commissioner for the Protection of Entrepreneurs’ Rights to refer the appeals of business entities to the National Ombudsman in cases of systemic problems that need further legal analysis. This measure is to increase the effectiveness of dealing with the problems faced by the business community and will actually minimize administrative hurdles.

The implementation of these changes will enhance the cooperative relationship between the different ombudsmen to a more optimal level in order to safeguard the rights of the relevant groups of citizens in the Republic of Kazakhstan.

Fifth, in order to increase the effectiveness of the complaint handling process and to enhance the availability of human rights institutions for citizens, it is suggested that one unified digital platform should be created and implemented for the reception and analysis of complaints. This platform would send automatic referrals to the proper entities. The establishment of this platform will help citizens lodge their grievances to ombudsmen and government bodies easily, avoid duplication of inspections and make the process more transparent. This will lead to a more effective interaction between various state and human rights organs in the analysis of the appeals made by citizens.

An important aspect of an effective system of protection of rights is control by parliament. Therefore, it is proposed to amend the law “On the Commissioner for Human Rights” in order to ensure the annual submission of a joint report of all ombudsmen for consideration in the House of Parliament of the Republic of Kazakhstan as a mandatory requirement. Such parliamentary control contributes to increasing transparency

and the public of the work of the ombudsmen and the prompt identification and elimination of problems in the field of human rights.

The implementation of the proposed changes will not only close legal gaps and reduce the risk of duplication of functions, but also significantly improve the effectiveness of the entire national human rights protection system in Kazakhstan.

The novelty of the results of this study lies in an integrated approach to studying the problem of legal regulation of the interaction of the Ombudsman with specialized ombudsmen in the Republic of Kazakhstan. For the first time in the domestic legal sphere, through a comparative analysis of the legislation of Kazakhstan and advanced international experience (Great Britain, Canada, Finland), legal gaps and clashes in the work of ombudsman institutions were identified and specified.

Discussion

The study of foreign and domestic scientific literature shows a variety of approaches to the creation of specialized ombudsman institutions. Foreign authors Hertz and Goodwin highlight the need to distinguish human rights organizations in order to respond to a wide range of contemporary social issues more effectively. According to Hertz (2018) [15; 125], specialized ombudsmen can more quickly and professionally consider citizens' complaints on narrow and complex issues, such as the rights of children, entrepreneurs or people with disabilities. Goodwin (2020) argues that the effective performance of the functions of specialized ombudsmen is possible only with coordinated work with national ombudsmen [16; 15]. This will help avoid redundancy and provide a comprehensive approach to protecting human rights.

During the analysis of literary sources, it was found that the issues related to the legal status and functioning of the ombudsman institution are covered in detail in the works of E.N. Mukhitdinov [17; 34], but no in-depth studies on the interaction of ombudsmen with specialized structures have been conducted. Comparative legal analysis of the ombudsman institution in Kazakhstan and Russia is also presented in the dissertation study of the Commissioner for Human Rights in these countries by A.B. Uzakbaeva [18; 25], but this work does not address in detail the issues of inter-institutional interaction.

Among the domestic authors, one should single out the works of M.S. Bashimov, who emphasizes the importance of integrating specialized ombudsmen into a unified system for protecting human rights in Kazakhstan [4; 47].

Scientific works of V.S. Issabekova for 2021 and 2022 are important for understanding the modern function of the institution of the Ombudsman in the Republic of Kazakhstan [19; 15]. In his study "Institute of the Commissioner for Human Rights: History, Modernity, Prospects" V.S. Issabekova justifies the need to consolidate the legislative powers of ombudsmen and develop specialized institutions for the protection of human rights. The article by V.S. Issabekova and Zalesny "Formation of a new model of election to the post of Commissioner for Human Rights in the Republic of Kazakhstan: problems and prospects" demonstrates the need for modern approaches to the election of the Ombudsman to take into account interaction with similar ombudsmen to increase the efficiency of their overall work [20; 27].

International experience shows that in countries with a developed system of human rights protection (e.g., the UK, Canada and Spain) there are well-established mechanisms of interaction between ombudsmen. For example, in Canada there is a legal obligation for ombudsmen to work together: to refer appeals to each other and conduct joint investigations.

In Canada, ombudsmen operate at both the federal and provincial and territorial levels under their own laws for each province and territory. For example, in Manitoba, the Ombudsman Act is applied, which establishes the powers and duties of the Ombudsman under Article 9 of part 2 of this law that are not subject to state legislation on service to ensure independence and objectivity in dealing with citizens' complaints [21].

Canada also has specialized human rights organizations — the Canadian Human Rights Commission and the Canadian Human Rights Tribunal. They monitor the observance of human rights both in public bodies and in the private sector. These institutions work in close alliance with provincial and territorial human rights commissioners to provide a two-stage system for the protection of human rights.

In Spain, there is a special legal institution, the Council of Ombudsmen, which coordinates their activities to avoid duplication of functions and ensure effective response to complex complaints from citizens. This mechanism is enshrined in Law 36/1985 of November 6, 1985 on the relationship between the state ombudsman and similar figures in various autonomous communities [22]. In accordance with Article 2 of this law, the ombudsmen of autonomous regions have the right to send complaints outside their competence to the state ombudsman in order to ensure effective cooperation and coordination activities.

1) The lack of an effective legal mechanism for coordination in Kazakhstan is a serious problem that deforms the system of human rights protection. To address this problem, it is necessary to amend the Law on the Ombudsman by establishing clear norms of interaction between different ombudsman structures, as well as to develop by-laws regulating the process of transferring complaints, information exchange and joint participation in the protection of citizens' rights. For example, it could be proposed to supplement the law with a new chapter "Interaction of the Commissioner for Human Rights with specialized ombudsmen".

The activities of the Commissioner for Human Rights and specialized ombudsmen (on the rights of the child, on the protection of the rights of entrepreneurs and persons with disabilities and other ombudsmen) will be carried out in accordance with certain principles:

- Mutual support and knowledge sharing;
- Coordination of efforts to protect human rights;
- Avoidance of repetition of functions and optimization of complaint procedures (no bureaucracy).

Special representatives will be independently engaged in their work and will be obliged to notify the Ombudsman of structural violations in the area of their work.

2) For the effective work of the bodies it is necessary to introduce a system for processing complaints with the possibility of their automatic forwarding to the competent authorities, ensuring prompt exchange of information and keeping statistics of appeals.

International experience shows examples of centralized electronic platforms in many European countries (as in Finland and Estonia), which allow complainants to track the process of consideration of their complaints in real time. The introduction of such a system in Kazakhstan will increase the transparency of the activities of the Commissioners for Human Rights and ensure a quick review of complaints without the risk of duplication.

To address this problem, it is advisable to create a unified information system for registration of complaints and integrate it into all ombudsman structures. It is important that such a system not only registers citizens' complaints, but also automatically forwards them to the competent authorities without the need for the complainant to understand how powers are distributed among the various ombudsmen.

3) In international practice there is a practice of parliamentary control over the activities of ombudsmen. This mechanism allows not only to consider complaints of citizens received by the ombudsmen, but also to make recommendations for changes in legislation.

For example, in the UK, specialized ombudsmen working in the health sector operate the Health Service Commissioners Act 1993, the activities of ombudsmen in the field of local self-government are regulated by the Local Government Act 1974, they have the right to seek clarification from government bodies on specific human rights issues and participate in the discussion of bills within their competence [23].

In Kazakhstan, however, there is no such mechanism of parliamentary control over the activities of ombudsmen, which reduces their ability to influence the country's human rights policy.

It is important to amend the legislation of Kazakhstan so that specialized ombudsmen can interact with state bodies through the Commissioner for Human Rights and provide expert opinions on draft laws affecting the sphere of their activities.

4) The practice of joint reports on human rights activities is widespread in different countries of the world. For example, in Finland and Australia, the annual reports of the Ombudsmen are summarized in a single document and presented in Parliament to increase the transparency and systematic nature of such activities. Kazakhstan should introduce a similar model by enshrining in legislation the obligation to create a joint report based on the data of all ombudsmen.

Conclusions

Improving legislation on the interaction of the Ombudsman and specialized commissioners in Kazakhstan is an important step to increase the effectiveness of the system for protecting human rights and freedoms. To eliminate the identified legislative gaps and ensure consistency, it is proposed to take a number of measures.

Firstly, it is proposed to amend the Constitutional Law of the Republic of Kazakhstan "On the Commissioner for Human Rights" No. 154-VII of November 5, 2022. It is important to supplement Article 9 of this law with specific provisions that clearly regulate the cooperation of the Ombudsman with specialized commissioners. It is necessary to provide for the transfer of complaints in accordance with the competence and approve the procedures for joint investigations and inspections. A single annual report on the activities of all ombudsmen should be developed and submitted to the Parliament of the Republic of Kazakhstan each year.

This will help structure the reporting process and eliminate repetition of functions in the work of human rights organizations.

Furthermore, it is advisable to incorporate a clause regarding collaboration with the National Ombudsman into the Law “On the Rights of the Child in the Republic of Kazakhstan” No. 345-II, dated August 8, 2002, specifically in Article 7-2 concerning the “Commissioner for the Rights of the Child”. This provision enables the Commissioner for Children’s Rights to submit appeals to the National Ombudsman for an extensive evaluation from a wide-ranging human rights standpoint. The proposed addition would eliminate legal ambiguity and enhance the efficiency of responses to instances of violations pertaining to children’s rights.

Third, Article 10-1 “Competence of the Ombudsman” of the Social Code of the Republic of Kazakhstan No. 193-VII of April 20, 2023, must be amended to include the provisions that require the participation of the Commissioner for the Rights of Socially Vulnerable Populations in collaborative inspections with the Commissioner for Human Rights. This is especially important for the protection of the rights and freedoms of the disabled people when considering their appeals. This modification will help provide proper help and a clear plan to solve the problems of violations of the rights of people with disabilities.

Fourth, the current legislation that regulates business activities is the Entrepreneurial Code of the Republic of Kazakhstan, which was adopted on October 29, 2015, and incorporates provisions for the Commissioner for the Protection of Entrepreneurs’ Rights in Chapter 28. It is recommended to incorporate a clause which allows the Commissioner for the Protection of Entrepreneurs’ Rights to channel business appeals to the National Ombudsman where systemic failures call for a more detailed legal analysis. This measure will lead to a more effective solution of the problems facing the business community and will contribute to the reduction of administrative barriers.

The implementation of these changes will increase the collaborative working of the ombudsmen to make a stronger protection of the rights of the aforementioned groups of citizens in the Republic of Kazakhstan.

Fifth, to improve the complaint handling and to increase the accessibility of human rights institutions for citizens, it is suggested that a single digital platform should be created and implemented for the reception and consideration of complaints, including the automatic routing of complaints to the relevant structures. The creation of this platform will assist ombudsmen and other government agencies in the receipt of complaints from citizens and will also help in avoiding duplication of inspections as well as increasing the transparency of the process. It will also help to improve the communication between different state and human rights institutions when considering the appeals of citizens.

The proposed changes will contribute to better cooperation between the human rights structures of Kazakhstan, ensure prompt consideration of complaints and increase the effectiveness of the protection of human rights and freedoms in accordance with international standards.

References

- 1 Калинина Е.Г. Специализированные уполномоченные по правам человека в России и за рубежом: сравнительно-правовое исследование: автореферат дис. ... канд. юрид. наук: спец. 12.00.02 «Конституционное право; муниципальное право» / Е.Г. Калинина. — Екатеринбург, 2016. — 28 с.
- 2 Шабанова З.М. Специализированные уполномоченные по правам человека в России и зарубежных странах: автореферат дис. ... канд. юрид. наук: спец. 12.00.02 «Конституционное право; муниципальное право» / З.М. Шабанова. — Москва, 2004. — 25 с.
- 3 Hertz K. The Role of Ombudsman Institutions in European Democracies: Mechanisms of Cooperation and Legal Development / K. Hertz // *European Human Rights Law Review*. — 2018. — No 12(3). — P. 45–62.
- 4 Башимов М.С. Институт омбудсмана в Республике Казахстан и зарубежных странах (сравнительно-правовой анализ): автореферат дис. ... д-ра юрид. наук : спец. 12.00.02 «Конституционное право; административное право; муниципальное право; финансовое право» / М.С. Башимов. — Астана, 2008. — 48 с.
- 5 Конституция Республики Казахстан от 30 августа 1995 г. — [Электронный ресурс]. — Режим доступа: https://adilet.zan.kz/rus/docs/K950001000_
- 6 Конституционный закон «Об Уполномоченном по правам человека» от 5 ноября 2022 г. № 154–VII ЗПК (в действ. ред.). — [Электронный ресурс]. — Режим доступа: <https://adilet.zan.kz/rus/docs/Z2200000154>
- 7 Принципы, касающиеся статуса национальных учреждений, занимающихся поощрением и защитой прав человека [Парижские принципы] от 20 декабря 1993 г. (в действ. ред.). — [Электронный ресурс]. — Режим доступа: <https://adilet.zan.kz/rus/docs/O9300000005>
- 8 Принципы защиты и укрепления института омбудсмана («Венецианские принципы») от 15-16 марта 2019 г. (в действ. ред.). — [Электронный ресурс]. — Режим доступа: <https://www.venice.coe.int/webforms/>

- 9 Закон Республики Казахстан «О правах ребенка в Республике Казахстан» № 345-II от 8 августа 2002 года. — [Электронный ресурс]. — Режим доступа: https://adilet.zan.kz/rus/docs/Z020000345_
- 10 Социальный кодекс Республики Казахстан № 193-VII от 20 апреля 2023 года. — [Электронный ресурс]. — Режим доступа: <https://adilet.zan.kz/rus/docs/K2300000193>
- 11 Предпринимательский кодекс Республики Казахстан № 375-V от 29 октября 2015 года. — [Электронный ресурс]. — Режим доступа: <https://adilet.zan.kz/rus/docs/K1500000375>
- 12 Parliamentary and Health Service Ombudsman Act (United Kingdom). — 1967. — [Electronic resource]. — Access mode: <https://www.legislation.gov.uk/ukpga/1967/13>
- 13 Public Complaints and Review Commission Act (Canada). — 1988. — [Electronic resource]. — Access mode: <https://laws-lois.justice.gc.ca/eng/acts/P-30.4/page-1.html>
- 14 Finnish Parliamentary Ombudsman Act (Finland). — [Electronic resource]. — Access mode: <https://www.finlex.fi/fi/laki/ajantasa/2002/20020973>
- 15 Hertz B. Specialized ombudsmen: effectiveness, autonomy and collaboration in European countries / B. Hertz // European Journal of Human Rights. — 2018. — Vol. 6. — No. 2. — P. 125–136.
- 16 Goodwin M. Ombudsman institutions: cooperation, autonomy and accountability / M. Goodwin // European Journal of Law and Public Administration. — 2020. — Vol. 7. — No. 2. — P. 15–27.
- 17 Мухитдинов Е.Н. Правовые основы формирования и функционирования института омбудсмена (уполномоченного по правам человека) в Казахстане и за рубежом: международно-правовые аспекты: автореф. дис. ... д-ра философии : спец.: «Международное право» / Е.Н. Мухитдинов. — Алматы, 2009. — 34 с.
- 18 Узакбаева А.Б. Уполномоченный по правам человека в Республике Казахстан и Российской Федерации: институциональный и сравнительно-правовой анализ: автореф. дис. ... канд. юрид. наук : спец. 12.00.02 «Конституционное право; административное право; муниципальное право; финансовое право» / А.Б. Узакбаева. — Алматы, 2010. — 25 с.
- 19 Issabekova V.S. The Institute of the Commissioner for Human Rights: history, modernity, prospects / V.S. Issabekova // Bulletin of the Karaganda University. “Law” Series. — 2024. — Vol. 29. — Issue 4(116). — P. 17–25.
- 20 Issabekova V.S. Formation of a new model of election to the post of Commissioner for Human Rights in the Republic of Kazakhstan: problems and prospects / V.S. Issabekova, J. Zalesny // Bulletin of the Karaganda University. “Law” Series. — 2024. — Vol. 29. — Issue 2(114). — P. 25–33.
- 21 The Ombudsman Act of Manitoba (Canada), RSM, c. O45. — 1987. — [Electronic resource]. — Access mode: <https://web2.gov.mb.ca/laws/statutes/ccsm/o045e.php>
- 22 Ley 36/1985, de 6 de noviembre, por la que se regulan las relaciones entre el Defensor del Pueblo y las figuras similares en las distintas Comunidades Autónomas (España). — [Electronic resource]. — Access mode: <https://www.boe.es/buscar/doc.php?id=BOE-A-1985-23948>
- 23 Health Service Commissioners Act. — 1933. — [Electronic resource]. — Access mode: <https://www.legislation.gov.uk/ukpga/1933/46>

В.С. Исабекова, Г.У. Балгимбекова

Адам құқықтары жөніндегі уәкілдің Қазақстан Республикасындағы мамандандырылған омбудсмендермен өзара қарым-қатынасы

Мақалада Қазақстан Республикасындағы Адам құқықтары жөніндегі уәкілдің мамандандырылған омбудсмендермен өзара іс-қимыл жасау проблемалары талқыланды. Зерттеу кезінде қолданыстағы заңнаманың негізгі кемшіліктері анықталды: омбудсмен институттары арасында үйлестірудің нақты тетігінің болмауы; шағымдарды тіркеу жүйесінің бірізді болмауы; мемлекеттік мекемелермен өзара іс-қимылдың жеткіліксіздігі және есептілік жүйесінің шашыраңқылығы. Мына елдерге халықаралық тәжірибені салыстыру жүргізілді: Канада, Ұлыбритания, Испания және Финляндия сияқты елдер адам құқықтарын қорғаудың дамыған жүйесіне ие және омбудсмендер арасындағы ынтымақтастықтың айқын тетіктерін көздейді. Бұған шағымдарды беруді заңдық реттеу, деректер алмасу және біріктірілген тексерулер кіреді. Құқық қорғау институттарының өзара іс-қимылының тиімділігін арттыру мақсатында «Бала құқықтары туралы» заңға, Өлеуметтік кодекске, Қазақстан Республикасының Кәсіпкерлік кодексіне өзгерістер енгізу ұсынылған. Атап айтқанда, ұсыныс омбудсмендер арасындағы ынтымақтастықты нығайтуға, оларды бірлескен тексеру регламентін әзірлеуге, олардың арасындағы өтініштерді беру тетігін енгізуге, сондай-ақ шағымдарды автоматты түрде қарау үшін бірыңғай цифрлық платформа құруға бағытталған. Ұсынылып отырған өзгерістер ашықтықты арттыруға, азаматтардың құқықтарын қорғау жөніндегі қызметтің қолжетімділігі мен үйлестірілуін жақсартуға бағытталған.

Кілт сөздер: Адам құқықтары жөніндегі уәкіл, мамандандырылған омбудсмендер, құқық қорғау институттары, құқықтық реттеу, шағымдар, халықаралық тәжірибе, үйлестіру, Қазақстан.

В.С. Исабекова, Г.У. Балгимбекова

Взаимодействие Уполномоченного по правам человека со специализированными омбудсменами в Республике Казахстан

В статье обсуждаются проблемы взаимодействия Уполномоченного по правам человека в Республике Казахстан со специализированными омбудсменами. При исследовании были выявлены основные недостатки действующего законодательства: отсутствие четкого механизма координации между омбудсменскими институтами, раздробленность системы регистрации жалоб, недостаточное взаимодействие с государственными учреждениями и фрагментированность системы отчетности. Было проведено сравнение международного опыта: такие страны как Канада, Великобритания, Испания и Финляндия обладают развитой системой защиты прав человека и предусматривают ясные механизмы сотрудничества между омбудсменами. Это включает юридическое регулирование передачи жалоб, обмен данными и соединенные проверки. В статье предложено внести изменения в Закон «О правах ребенка», Социальный кодекс, Предпринимательский кодекс Республики Казахстан с целью повышения эффективности взаимодействия правозащитных институтов. В частности, предложение направлено на укрепление сотрудничества между омбудсменами, разработку регламента их совместных проверок, внедрение механизма передачи обращений между ними, а также создание единой цифровой платформы для автоматизированного рассмотрения жалоб. Предлагаемые изменения призваны повысить прозрачность, улучшить доступность и координацию деятельности по защите прав граждан.

Ключевые слова: Уполномоченный по правам человека, специализированные омбудсмены, правозащитные институты, правовое регулирование, жалобы, международный опыт, координация, Казахстан.

References

- 1 Kalinina, E.G. (2016). Spetsializirovannye upolnomochennye po pravam cheloveka v Rossii i za rubezhom: sravnitel'no-pravovoe issledovanie [Specialised Human Rights Ombudspersons in Russia and Abroad: A Comparative Legal Study]. *Extended abstract of candidate's thesis*. Ekaterinburg [in Russian].
- 2 Shabanova, Z.M. (2004). Spetsializirovannye upolnomochennye po pravam cheloveka v Rossii i zarubezhnykh stranakh [Specialised Human Rights Ombudspersons in Russia and Foreign Countries]. *Extended abstract of candidate's thesis*. Moscow [in Russian].
- 3 Hertz, K. (2018). The Role of Ombudsman Institutions in European Democracies: Mechanisms of Cooperation and Legal Development. *European Human Rights Law Review*, 12(3), 45–62.
- 4 Bashimov, M.S. (2008). Institut ombudsmena v Respublike Kazakhstan i zarubezhnykh stranakh: sravnitel'no-pravovoi analiz [The Ombudsman Institution in the Republic of Kazakhstan and Foreign Countries: Comparative Legal Analysis]. *Extended abstract of candidate's thesis*. Astana [in Russian].
- 5 Konstitutsiia Respubliki Kazakhstan, priniata na respublikanskom referendume 30 avgusta 1995 goda (s izmeneniiami i dopolneniiami) [The Constitution of the Republic of Kazakhstan, adopted at a national referendum on August 30, 1995 (with amendments and additions)]. (1995, 30 August). *adilet.zan.kz*. Retrieved from https://adilet.zan.kz/rus/docs/K950001000_ [in Russian].
- 6 Ob Upolnomochennom po pravam cheloveka v Respublike Kazakhstan. Konstitutsionnyi zakon Respubliki Kazakhstan ot 5 noiabria 2022 goda № 154-VII [About the Commissioner for Human Rights in the Republic of Kazakhstan. Constitutional Law of the Republic of Kazakhstan dated November 5, 2022 No. 154-VII]. (2022, 5 November). *adilet.zan.kz*. Retrieved from <https://adilet.zan.kz/rus/docs/K2200000154> [in Russian].
- 7 Parizhskie printsipy, priniaty Generalnoi Assamblei OON 20 dekabria 1993 goda, rezoliutsiia 48/134 [The Paris Principles, adopted by the UN General Assembly on December 20, 1993, resolution 48/134]. (1993, 20 December). *ohchr.org*. Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/principles-relating-status-national-institutions-paris/> [in Russian].
- 8 Printsipy zashchity i ukrepleniia instituta ombudsmena («Venetsianskie printsipy») ot 15-16 marta 2019 g. (v deistvuiushchei redaktsii) [Principles for the Protection and Strengthening of the Ombudsman Institution (“Venice Principles”) dated March 15-16, 2019 (effective version)]. (2019, 15-16 March). *venice.coe.int*. Retrieved from <https://www.venice.coe.int/webforms/> [in Russian].
- 9 Zakon Respubliki Kazakhstan «O pravakh rebenka v Respublike Kazakhstan» № 345-II ot 8 avgusta 2002 goda [The Law of the Republic of Kazakhstan “On the Rights of the Child in the Republic of Kazakhstan” No. 345-II dated August 8, 2002]. (2002, 8 August). *adilet.zan.kz*. Retrieved from https://adilet.zan.kz/rus/docs/Z020000345_ [in Russian].
- 10 Sotsialnyi kodeks Respubliki Kazakhstan № 193-VII ot 20 apreliia 2023 goda [Social Code of the Republic of Kazakhstan No. 193-VII dated April 20, 2023]. (2023, 20 April). *adilet.zan.kz*. Retrieved from <https://adilet.zan.kz/rus/docs/K2300000193> [in Russian].
- 11 Predprinimatelskii kodeks Respubliki Kazakhstan № 375-V ot 29 oktiabria 2015 goda [The Presidential Code of the Republic of Kazakhstan No. 375 dated October 29, 2015]. (2015, 29 October). *adilet.zan.kz*. Retrieved from <https://adilet.zan.kz/rus/docs/K1500000375> [in Russian].
- 12 (1967). Parliamentary and Health Service Ombudsman Act (United Kingdom). *legislation.gov.uk*. Retrieved from <https://www.legislation.gov.uk/ukpga/1967/13>.

13 (1988). Public Complaints and Review Commission Act (Canada). *laws-lois.justice.gc.ca*. Retrieved from <https://laws-lois.justice.gc.ca/eng/acts/P-30.4/page-1.html>.

14 Finnish Parliamentary Ombudsman Act (Finland). *finlex.fi*. Retrieved from <https://www.finlex.fi/fi/laki/ajantasa/2002/20020973>.

15 Hertz, B. (2018). Specialized ombudsmen: effectiveness, autonomy and collaboration in European countries. *European Journal of Human Rights*, 6(2), 125–136.

16 Goodwin, M. (2020). Ombudsman institutions: cooperation, autonomy and accountability. *European Journal of Law and Public Administration*, 7(2), 15–27.

17 Mukhitdinov, E.N. (2009). Pravovye osnovy formirovaniia i funktsionirovaniia instituta ombudsmena (upolnomochennogo po pravam cheloveka) v Kazakhstane i za rubezhom: mezhdunarodno-pravovye aspekty [Legal bases for the formation and functioning of the Ombudsman institution (Commissioner for Human Rights) in Kazakhstan and abroad: international legal aspects]. *Extended abstract of Doctor's thesis*. Almaty [in Russian].

18 Uzakbayeva, A.B. (2010). Upolnomochennyi po pravam cheloveka v Respublike Kazakhstan i Rossiiskoi Federatsii: institut-sionalnyi i sravnitelno-pravovoi analiz [The Commissioner for Human Rights in the Republic of Kazakhstan and the Russian Federation: institutional and comparative legal analysis]. *Extended abstract of candidate's thesis*. Almaty [in Russian].

19 Issabekova, V.S. (2022). The Institute of the Commissioner for Human Rights: history, modernity, prospects. *Bulletin of the Karaganda University. "Law" Series*, 29(4), 17–25.

20 Issabekova, V.S., & Zalesny, J. (2024). Formation of a new model of election to the post of Commissioner for Human Rights in the Republic of Kazakhstan: problems and prospects. *Bulletin of the Karaganda University. "Law" Series*, 29(2), 25–33.

21 (2024). The Ombudsman Act of Manitoba (Canada), RSM, c. O45. *web2.gov.mb.ca*. Retrieved from <https://web2.gov.mb.ca/laws/statutes/ccsm/o045e.php>.

22 Ley 36/1985, de 6 de noviembre, por la que se regulan las relaciones entre el Defensor del Pueblo y las figuras similares en las distintas Comunidades Autónomas (España) [Law 36/1985 of November 6, regulating relations between the Ombudsman and similar figures in the different Autonomous Communities (Spain)]. (1985, 6 November). *boe.es*. Retrieved from <https://www.boe.es/buscar/doc.php?id=BOE-A-1985-23948>.

23 (1933). Health Service Commissioners Act. *legislation.gov.uk*. Retrieved from <https://www.legislation.gov.uk/ukpga/1993/46>.

Information about the authors

Issabekova Venera Sabitovna — 3rd year PhD Student, Department of Constitutional and International Law, Karaganda Buketov University, Karaganda, Kazakhstan; e-mail: visabekova@mail.ru

Balgimbekova Gulnara Ukibaevna — Candidate of Juridical Sciences, Professor of the Department of Constitutional and International Law, Karaganda Buketov University, Karaganda, Kazakhstan; e-mail: gbalgimbekova@mail.ru