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Current state of formation of local public administration and self-government

The article describes the main directions for further improvement of local self-government in the control system of Kazakhstan: a) the involvement of rural residents in the decision-making at the local level, including their implementation; b) build the basic principles of organization and activity of local self-government; c) providing more specific legislative norms of the organization meeting and gatherings of the local community, in particular the introduction of a rule to provide the local population the right to participate in monitoring the use of budget funds allocated for the solution of problems of local importance; g) inclusion in existing programs development district (city of regional significance) as well as regions, formed in large cities, which will be reflected priority needs of the population, taken at the meetings of the local community at the village level, rural district, town, city of district significance; d) the order of formation of functions of local authorities, increase their financial autonomy. To bring to logical completion of decentralization between levels of government were determined the basic principles of organization and activities of local governments that each level of management to consolidate the functions and responsibilities for each of them. In the modern world the welfare of the state determined by the effective use of the potential of the nation in General and the abilities of individual citizens. Specific proposed consolidation of legislation regulating the order of formation, conducting and powers of the Assembly and meetings, and identification of specific issues of funding of local importance.

Keywords: local government, functions of local governments, financial autonomy, local community, gatherings, meetings, monitoring, the budget, self financing, local importance.

Development of system of local government is one of indispensable conditions of economic prosperity, social wellbeing and formation of civil society. In the Message of the President of the Republic of Kazakhstan to the people of Kazakhstan of January 27, 2012 «Social and economic modernization - the main vector of development of Kazakhstan», is developed the Concept of development of local government in the Republic of Kazakhstan [1] it was noted: «It is important to develop local government, to expand participation of citizens in the solution of all questions of local development».

Formation of local government takes place in the Republic of Kazakhstan as the multi-stage and dynamic process connected with development of institutes of the state and civil society, the general level of social and economic development of the country, other factors and conditions which directly influence life of local population.

It is known that in the developed countries of the world the local government was created in several stages, and this process had historically long character. In Kazakhstan approaches to the solution of problems of local government which would correspond to conditions and realities of our country are also studied. «Process of formation and development of local government in Kazakhstan has begun rather recently. It is necessary to do a great job on revision of the legislative base, applied practice, correction of a control system and reorientation of mentality of the population» [1].

Therefore the majority of the developed countries seeks for improvement of models of local government. This level of the power is brought most closer to the population, is generally formed by him, is under control to him and resolves issues on satisfaction of the basic vital needs of the population. At rational creation of local government not only local resources are optimum spent, but also the trust of the population to the power considerably increases.

At a present stage of development of the state increase in efficiency and competitiveness of system of public administration happens by transfer of a number of functions of direct ensuring activity of local communities to the sphere of regulation of local government.

It is known that in 2007 additions by which it is determined that the local government is carried out by the population directly, and also through maslikhat and other local governments [2] are made to the Constitution. By the legislation it is established that the akim, along with functions of public administration, carries out function and local government, and for discussion of questions of local value by direct will meetings (descents) of local community can be held [3].

By 2011 offices of akims of auls (villages), settlements, cities of regional value, and also areas in the cities (further - akims of the lower level of management) in legal form of public institution are created. At the same time, they have no independent budget yet, but are administrators of the budgetary programs. These expenses are provided in structure of the budget of the area (the city of regional value) and are approved by the corresponding maslikhata. These expenses are directed to implementation of preschool education and training, rendering social home visiting service to the needing citizens, improvement and gardening of settlements, the pokhozyaystvenny account etc.

A number of functions which aren't completely provided with finance is assigned to akims of auls (villages), the aulny (rural) district, settlement. As a result akims not completely will be able effectively to resolve issues of local value. For the solution of this problem at an initial stage since 2012 within the Development of Regions program the mechanism of financial support of regions for the solution of topical issues of local value has begun to be implemented. An important link of this mechanism is participation of the population in selection of actions and distribution of the allocated funds.

Now creation of independent budgets at the lowermost level of local management restrains the fact that the majority of regional budgets is local. It is necessary to expect that budgets of the lower level of management in case of their formation can also be local (for example: in the Akmola region of all 17 areas receive a subvention from the regional budget, in the Karaganda region from 9 areas 8 are local).

There is also a number of unresolved problems directly in implementation of local government. The current legislation has provided that the order of holding a meeting (descent) and decision-making is defined by maslikhat of areas, the cities of republican value and the capital, and at the same time everyone has to accept the order of carrying out descents. However for today the norms on participation of citizens in discussion of questions of local value provided by the legislation at meetings (descents) in practice aren't implemented. Aren't regulated by the legislation an order of formation, carrying out and power of meetings (descents). Also one of the main problem points determining insufficient independence of akims of rural level at implementation by them of the assigned functions is limitation of the rights of possession and the order own financial means, property and other resource opportunities.

At the same time, powers of rural akims in decision-making in economic and social spheres, in the solution of questions of use of the available local resources - the earth, property, real assistance to growth of small and medium business step by step extend.

For ensuring sustainable complex social and economic development of the settlement at the lower level of management it is necessary to include in the existing programs of development of the area (the city of regional value) in addition point in which the prime needs and needs of inhabitants of this territory which are the basis for formation of the budgetary programs for ensuring activity of local community will find the reflection.

Efficiency of local government in many respects depends not only on existence of all complex of the necessary laws providing a legal, organizational and economic basis of self-government but also on understanding the population of the rights and opportunities in system of local government, on the valid ability to carry out local government.

Considering current state of legal literacy of the population regarding understanding of the rights and opportunities in implementation of local government, more in the village, it is necessary to stir up information and propaganda activities for an explanation to the population of a role and the place of self-government in society and the state. The world practice demonstrates that the local government effectively functions in administrative and territorial units of the lower level where the population lives compactly. In Kazakhstan - this village, the rural district, the settlement, the city of regional value, the area in the city.

It is necessary to give authority to local governments step by step, otherwise self-government institutions cannot cope with the tasks set for them. The trust to local governments both from the state institutes, and from citizens will appear only in the course of their work.

In the Strategic development plan for the Republic of Kazakhstan till 2020 [4] are defined priorities of further modernization of political system, including development of local government. It is expected that by 2020 value of the representative power will increase in Kazakhstan, the effective institutes of local government and civil society conforming to the best international standards will be created.

Proceeding from provisions of the Strategy of development for Kazakhstan till 2020, define the main conceptual directions of further development of system of local government in our country. Measures for the solution of the following tasks are taken for achievement of the specified purpose taking into account the above-named key problems:

1) at the level of aul (villages), settlements, the cities of regional value gradually to raise a role of the population in the solution of questions of local value through meetings (descents) of local community by stimulation of participation, interest and responsibility of the population at adoption of administrative decisions;

2) at the level of the cities for the solution of the most pressing problems which concern local population, to introduce the mechanism of involvement of a part of the active population in process of adoption of administrative decisions;

3) to raise a role of maslikhat at appointment or election of akims in the cities of regional value, rural districts, villages which aren't a part of the rural district;

4) to expand financial and economic independence of the lower level of management in the solution of questions of local value.

Results of the taken measures:

1) are provided realization of constitutional right of citizens on implementation of local government regarding expression of will of the population through meetings and descents;

2) In 2013 selectivity of akims in the cities of regional value, rural districts, the villages which aren't a part of the rural district by means of their elections of a maslikhat of areas (cities) is entered;

3) roles of the population, his participation in the qualitative solution of questions of improvement of settlements, increase in interest of the population in receiving qualitative housing and communal services, improvement of a sanitary state, public order by means of participation in adoption of administrative decisions began to raise;

4) there is an involvement of urban population in the solution of local problems;

Further it is necessary to realize the following measures:

1) participation of local population in monitoring of use of the budgetary funds allocated for the solution of problems of local value;

2) stage-by-stage and consecutive strengthening of independence of akims as heads of local governments in the solution of topical issues of local value;

3) increase in civil activity of Kazakhstan citizens in the solution of important problems of activity of society by means of the carried-out information and explanatory work.

By such way in Kazakhstan the effective system of the local governments having a certain economic and financial independence capable to give help to the state in carrying out social and economic transformations and to resolve various issues of local value is gradually created.

As important indicator in definition of value of local governments serves that factor that in their activity the population will be directly involved. For ensuring effective functioning of local government and life support of the population local self-government institutions to be allocated with the corresponding volume of material financial resources in the nearest future. In April, 2017 it has been reported that 1066 rural districts will have own budgets.

It will give a new impulse to social and economic development of the country and formation of full-fledged civil society, will allow to realize the constitutional norms, to create legislative bases of the organization and activity of local government, to undertake real reforms in the sphere of democratization of the power, to raise a role of the population in the solution of questions of local value, to create conditions for direct participation of the population in public administration, to reduce the level of manifestations of bureaucracy and corruption.

Realization of policy of development of local government which in turn will lead to creation of system of interaction of the population, local government and the government which effective functioning will allow to provide will be result of these measures finally:

1) increase in a role of the population, his participation in the qualitative solution of questions of local value;

2) increase in the standard of living of the population in each settlement;

3) increase in political stability in the region and the state in general.

Theoretical base for constitutional and legal regulation of local government are the conventional values of municipal democracy and municipal management including fixed by the European charter of local government of October 15, 1985 [5] which establish that:

1) the local government makes one of bases of a democratic system;

2) the right of citizens for participation in government can be carried directly out at the local level;

3) existence of the local governments given real authority provides at the same time effective and brought closer to citizens management;

4) the local governments created in the democratic way have to have autonomy concerning the competence, an order of her implementation and necessary for this means.

The principles of local government serve as the legal base for the municipal legislation of many countries of the world. The European charter of local government allocates four main signs without which the local government can't be carried out:

- the power operating in the limits set by the law;
- investment of local government with the right of the independent order with resources;
- the power with accurately designated functions in the state;
- existence of electoral local governments.

The system of self-government assumes existence of the corresponding economic conditions, accurate legal base which would differentiate areas of jurisdiction between public authority and local government, qualitatively other level of mass consciousness, legal culture and behavior of people.

From the developing experience of development of local government it is possible to draw a conclusion that in the large cities of Kazakhstan: Astana, Almaty, Karaganda, Shymkent areas, in other cities of regional value - the centralized management are created. Creation at the level of the area in the city of governing bodies with the independent budget is considered inexpedient.

The passable way of local government shows what in our country at this stage is gradually formed effectively acting, the most acceptable for Kazakhstan organizational, financial, personnel system of ensuring activity of local governments, and also the interaction mechanism with public authorities. The structure of a state system of the country, regional specifics (the big territory, low population density, considerable distance between compactly living groups of the population), local traditions and culture, economic and other conditions is considered.

The basic principles of the organization and activity of local government in the Republic of Kazakhstan offer:

- 1) independent decision population of questions of local value;
- 2) legality, equal rights and accounting of legitimate interests of all inhabitants of the settlement;
- 3) publicity and the accounting of opinion of citizens at the solution of the questions which are directly infringing on interests of the population of the corresponding administrative and territorial units;
- 4) respect for state interests at the solution of local tasks;
- 5) participation in the solution of questions of the state value;
- 6) the principle of subsidiarity based that intervention of higher body of management in actions subordinate is allowed only in that measure in what the last I have allowed the actions contradicting the Constitution, laws and acts of the Head of state and the Government has shown the inability to effective management, and in the presence of certain conditions under which such intervention can be considered lawful and expedient;
- 7) complexity, staging of development of system of local government;
- 8) support of local government from the state;
- 9) openness of activity of local governments, their submission to control and accountability to the population.

In our opinion, it is necessary to enshrine the legislative rules providing more specifically:

- 1) regulation of an order of formation, carrying out and powers of meetings and descents and execution of their decisions;
- 2) obligation of discussion by meeting or a descent of questions of financing of actions of local value (akims of the lower level of management have no independent budget, but are administrators of fifteen budgetary programs as a part of the budget of the area). Descents of local community will be carried out on the most important questions demanding general discussion (the report of the akim, definition of list of participants of meetings etc.). The meeting of local community will be held for discussion of the current questions of local community: budgetary programs, formation and use of own profitable sources and other questions. Participants of the meeting of local community will be formed of the representatives delegated by a descent, representing the interests of separate groups of the population: veterans, for a family and women, for youth, elders, house, street and quarter committees and others. Representatives of meetings of local community are delegated for the period determined by the legislation and carry out the activity on a constant basis. Decisions of akims of the lower levels on local value are coordinated and approved by representatives

of meetings. In case of lack of a compromise in the solution of appropriate questions, they will turn into competence of higher body. In order to avoid execution by the akim of illegal decisions and for an exception of lobbying of interests of separate groups and segments of the population, the provision on obligation of consideration by the akim of decisions of meetings and descents and informing the population on acceptance (or a deviation) by him decisions taking into account respecting the rule of law will be fixed.

3) introduction of norm on providing to local population of the right of participation in monitoring of use of the budgetary funds allocated for the solution of problems of local value;

4) inclusion in the existing programs of development of the region (the city of regional value) of subsection in which the prime needs of the population accepted at meetings and descents of local community at the level of the village, the rural district, the settlement, the city of regional value will find the reflection;

Above-mentioned measures will allow to raise a role of the population in the solution of questions of local value, to stimulate participation, interest and responsibility of citizens at decision-making, to strengthen trust to public authorities.

It are gradually provided to akims of villages, settlements, cities of regional value:

– the right of formation of own profitable sources (the income from rendering paid services, voluntary and target collecting, contributions of charity foundations and sponsors, charges for trade in specially established places, penalties for improvement violation of the rules, damage of infrastructure facilities and green plantings, trade in unspecified places and the other sources which aren't contradicting the legislation);

– to transfer a part of regional municipal property (clubs, libraries, kindergartens, etc.) for the purpose of their effective use, satisfaction of inquiries and needs of local population and obtaining the additional income.

From now on to akims of villages, settlements, cities of regional value to grant the right for opening of special accounts in bodies of treasury where the income and expenses directed to realization of functions of local government will be reflected;

For granting full-fledged opportunities in the solution of questions of local value it is necessary to expand step by step powers of akims of the lower level of management due to optimization of realizable and allowing functions of executive bodies of regional and regional levels. It is necessary to accelerate work on differentiation of powers between levels of public administration, regarding optimization of system of public administration by redistribution of powers of authority down «the republic (center) - area - the area - city and rural settlements».

It is necessary to hold events for increase in legal literacy of the population concerning realization of the rights and opportunities on self-government implementation, including:

1) preparation, retraining and professional development of shots for local governments;

2) the organizational and methodical support of activity of local government including consultation of officials and employees of self-government institutions, the organization and holding of conferences, seminars on topical issues of local government, practical exchange of experience, etc.;

3) information support of local government in promoting of the ideas, the principles and tasks of local government among the population, informing on the course and problems of reform, on a role of the population in creation of system of public control over activity of local governments, carrying out sociological researches, including polls.

The list of regulations by means of which implementation of the drawn-up plans is supposed:

1. Constitution of the Republic of Kazakhstan. August 30, 1995.

2. Budgetary code of the Republic of Kazakhstan. December 4, 2008.

3. Civil code of the Republic of Kazakhstan (General part). December 27, 1994.

4. Civil code of the Republic of Kazakhstan (Special part). July 1, 1999.

5. The code of the Republic of Kazakhstan «About administrative offenses». January 30, 2001.

6. Land code of the Republic of Kazakhstan. June 20, 2003.

7 About local public administration and self-government in the Republic of Kazakhstan. Law of the Republic of Kazakhstan. January 23, 2001.

8. About the state control and supervision in the Republic of Kazakhstan. Law of the Republic of Kazakhstan. January 6, 2011.

9. About the state property. Law of the Republic of Kazakhstan. March 1, 2011.

10. About System of state planning in the Republic of Kazakhstan. Decree of the President of the Republic of Kazakhstan. June 18, 2009.

11. About some questions of further functioning of System of state planning in the Republic of Kazakhstan. Decree of the President of the Republic of Kazakhstan. March 4, 2010.

References

- 1 Указ Президента от 28 ноября 2011 г. «Об утверждении Концепции развития местного самоуправления в Республике Казахстан» [Электронный ресурс]. — Режим доступа: https://tengrinews.kz/zakon/prezident_respubliki_kazahstan/hozyaustvennaya_deyatelnost/id-U1200000438/.
- 2 Конституция Республики Казахстан от 30 августа 1995 г. [Электронный ресурс]. — Режим доступа: <http://online.zakon.kz>.
- 3 Закон от 23 января 2001 г. «О местном государственном управлении и самоуправлении в Республике Казахстан» [Электронный ресурс]. — Режим доступа: <http://online.zakon.kz>.
- 4 Стратегический план развития Казахстана до 2020 г. [Электронный ресурс]. — Режим доступа: <http://akorda.kz>.
- 5 Европейская хартия местного самоуправления, 15 октября 1985 г. [Электронный ресурс]. — Режим доступа: <http://constitution.garant.ru/act/right/megdunar/2540485/>.

М.Кемел

Жергілікті органдардың мемлекеттік басқару және өзін-өзі басқаруды қалыптастыру жай-күйі

Мақалада Қазақстанның басқару жүйесіндегі жергілікті өзін-өзі басқаруды одан әрі жетілдірудің негізгі бағыттары ашып көрсетілген: а) жергілікті деңгейдегі шешімдерді қабылдау мен жүзеге асыруға ауыл тұрғындарын тарту үдерісі; ә) жергілікті өзін-өзі басқаруды ұйымдастыру мен қызметін жүзеге асырудың негізгі қағидаларын қалыптастыру; б) жергілікті қоғамдастықтың жиындары мен жиналыстарын ұйымдастырудың нақтырақ құқықтық нормаларын қарастыру, атап айтқанда, жергілікті тұрғындарға жергілікті мәселелерді шешуге жұмсалатын бюджеттік қаржыны бөлуге мониторинг жасауды беруді енгізу; в) аудандардың (облыстық маңызы бар қалалардың) және де ірі қалаларда құрылған аудандардың даму бағдарламаларына тұрғындардың ең бірінші қажеттіліктерін жүзеге асыру; г) елді мекендерде жергілікті өзін-өзі басқарудың функцияларын қалыптастыру, оның қаржылық еркіндігін кеңейту. Жергілікті өзін-өзі басқару органдарының қалыптасуын одан әрі жетілдіре түсу үшін мемлекеттік басқаруды орталықсыздандыру ең төменгі деңгейіне жетуі тиіс, сонда ғана жергілікті өзін-өзі басқарудың ұйымдасу және қызмет ету қағидалары айқындалып, әр деңгейдің міндеттері мен жауапкершілігі белгіленеді. Жиналыстар мен жиындарды дайындау мен өткізудің тәртібін белгілеу мен жергілікті маңызы бар мәселелерді қаржыландырудың нақты сұрақтарын айқындауды нормативтік тұрғыдан реттеу ұсынылды.

Кілт сөздер: жергілікті өзін-өзі басқару, жергілікті өзін-өзі басқару органдарының қызметтері, қаржылық еркіндік, жергілікті қоғамдастық, жиын, жиналыс, мониторинг, бюджет, өзін-өзі басқару, қаржыландыру.

М.Кемел

Современное состояние формирования органов местного государственного управления и самоуправления

В статье раскрываются основные направления дальнейшего совершенствования местного самоуправления в системе управления Казахстана: а) процесс вовлечения сельских жителей к принятию решений местного уровня, включая их реализацию; б) построение основных принципов организации и деятельности местного самоуправления; в) предусмотрение более конкретных законодательных норм организации собраний и сходов местного сообщества, в частности, введение нормы по предоставлению местному населению права участия в мониторинге за использованием бюджетных средств, выделенных на решение проблем местного значения; г) включение в действующие программы развития района (города областного значения) а также районов, образованных в крупных городах, первоочередных потребностей населения, принятых на собраниях и сходах местного сообщества на уровне села, сельского округа, поселка, города районного значения; д) порядок формирования функций местного самоуправления на местах, расширение их финансовой самостоятельности. Для доведения до логического завершения децентрализации между уровнями государственного управления были определены основные принципы организации и деятельности местного самоуправления, чтобы на каждом уровне управления закрепить функции и ответственность

персонально для каждого из них. В современном мире благополучие государства определяется эффективным использованием потенциала нации в целом и способностей отдельно взятых граждан. Предложено конкретное закрепление законодательных норм по регламентации порядка формирования, проведения и полномочий собраний и сходов, а также по определению конкретных вопросов финансирования мероприятий местного значения.

Ключевые слова: местное самоуправление, функции органов местного самоуправления, финансовая самостоятельность, местное сообщество, сходы, собрания, мониторинг, бюджет, самоуправление, финансирования.

References

- 1 Ukaz prezidenta ot 28 noiabria 2011 h. «Ob utverzhdenii Kontseptsii razvitiia mestnoho samoupravleniia v Respublike Kazakhstan» [The presidential decree dated 28 November 2012 «On the approving the concept of local self-government development in the Republic of Kazakhstan»]. *tengrinews.kz*. Retrieved from https://tengrinews.kz/zakon/prezident_respubliki_kazahstan/hozyaystvennaya_deyatelnost/id-U1200000438/ [in Russian].
- 2 Konstitutsiia Respubliki Kazakhstan ot 30 avhusta 1995 h. [Constitutional of the Republic of Kazakhstan of 30 August 1995]. *online.zakon.kz*. Retrieved from <http://online.zakon.kz> [in Russian].
- 3 Zakon ot 23 yanvaria 2001 h. «O mestnom hosudarstvennom upravlenii i samoupravlenii v Respublike Kazakhstan» [The Law of 23 January 2001 «On local public administration and self-government in the Republic of Kazakhstan»]. *online.zakon.kz*. Retrieved from <http://online.zakon.kz> [in Russian].
- 4 Stratehicheskii plan razvitiia Kazakhstana do 2020 h. [Strategic development plan of Kazakhstan till 2020]. *akorda.kz*. Retrieved from <http://akorda.kz> [in Russian].
- 5 Evropeiskaia khartiia mestnoho samoupravleniia, 15 oktiabria 1985 h. [The European Charter of Local self-government, 15 October 1985]. *constitution.garant.ru*. Retrieved from <http://constitution.garant.ru/act/right/megdunar/2540485/> [in Russian].