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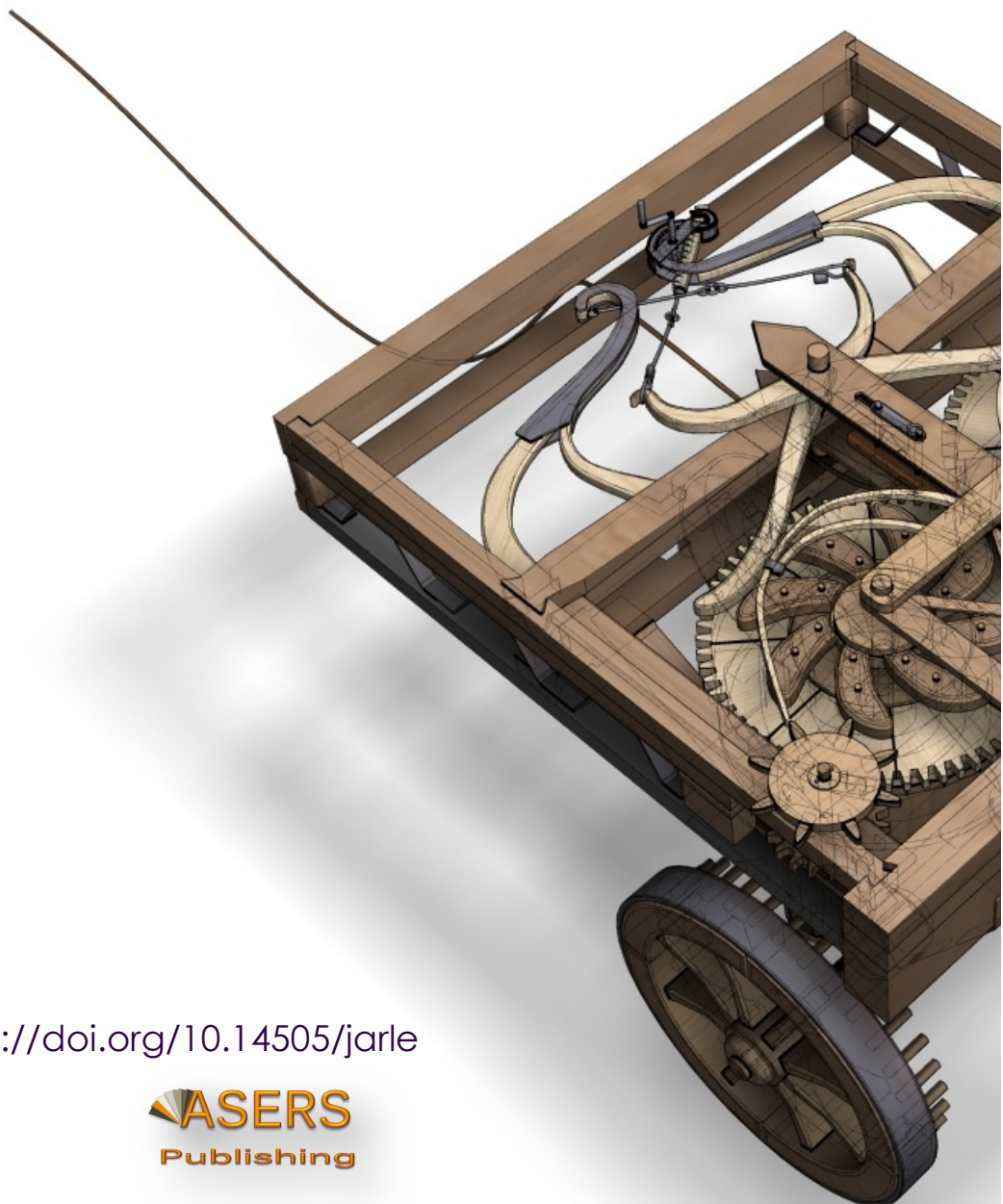
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State Property Management in the Republic of Kazakhstan

Binur Adamovna TAITORINA

Department of State and the Civil-Law Disciplines, Institute of History and Law
Kazakh National Pedagogical University named after Abai, Almaty, **Republic of Kazakhstan**
binur.a@mail.ru

Aigerim Zhaksylykovna ZHARBOLOVA

Chair of Civil Law and Civil Procedure, Labor Law, Faculty of Law
Al-Farabi Kazakh National University, Almaty, **Republic of Kazakhstan**
aliyakas@mail.ru

Sabyrzhan Malievich ZHAPAKOV

School of Applied Sciences, University 'Narxoz', Almaty, **Republic of Kazakhstan**
sake.007@mail.ru

Moldir SADIBEKOVA

Department of Civil Law and Civil Procedure, Faculty of Jurisprudence and International Relations
South Kazakhstan State University named after M. Auezov, Shymkent, **Republic of Kazakhstan**
sadibekova.m@mail.ru

Zhanar Toleubekovna KARASHEVA

Chair of Civil Law and Civil Procedure, Labor Law, Faculty of Law
Al-Farabi Kazakh National University, Almaty, **Republic of Kazakhstan**
karasheva.zh@mail.ru

Yermek Abiltayevich BURIBAYEV

Department of State and the Civil-Law Disciplines, Institute of History and Law
Kazakh National Pedagogical University named after Abai, Almaty, **Republic of Kazakhstan**
yermek-a@mail.ru

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Abstract

The relevance of the study is caused by necessity to provide legal analysis in the issues of increasing the efficiency of state property management, further development of national companies, national holdings and other new corporate government agencies engaged in public administration in the management of state property. Low efficiency of the administration of management process in this area; fragmentation of levels and branches of government, lack of clearly defined objectives of the state property; poor performance of state property management monitoring; lack of

transparency in management procedures; together served as the basis for determining the direction of research, its nature, specificity, structure and methods of research.

Thereby, this article determines the control mechanism by the state property; the study presents formation and the main trends of legislative regulation of state property as a control object; examines the legal characteristics of the phenomenon of state property and the nature and value of the state assets management as well; substantiates the systemic nature of state property management, consisting of two main elements –governmental and corporate structures activities in state property control; presents the analysis of legal framework in the area of administrative mechanisms of state property realization; investigates the issues of increasing efficiency of legal support of administrative relations dynamics which are the subject of the state assets.

The major methods in the study of this problem are dialectical, logical, legal, social and legal, comparative legal and system-structural which allow to consider the problems of state property management comprehensively.

The study formulated the following conclusions and recommendations: the main parameters of a legal mechanism to ensure control of state property; the main trends in the evolution of legislative support of state property management are defined; the controlling system of state authorities in state property management is defined, set it functioning modern trends, the modern trends of its functioning are defined. The role of local authorities in the mechanism of state property management is reviewed. The corporate state property management system is revealed, its subjects are defined, their organizational and legal forms of activity are investigated, the principles of their activity on state property management are summarized. The authorities of administration activities in state property management are systematized, the constitutional foundations of their interaction are determined. The problems of legal ensuring the effective of state assets management are revealed, the recommendations for law-making activities in this area are given.

The identified as a result of the study main parameters of legal control mechanism in ensuring public property management address issues of legal support in providing effective management in the legislative process in this area.

Keywords: public administration, state property, authorities.

JEL Classification: H82, K11, G18.

Introduction

The factors determining the urgency of the study (therefore its timeliness and relevance) are fundamental changes which occurred last years; significant gaps in the implementation of the ordering influence on the activities in the state property management control and supervisory functions; law efficiency of management process in this area administration. While non-state owners usually tend to focus on market orientation and performance of a company, the state-owned shareholders put primarily political objectives but not profit maximization.

The studies in this area indicate that controlled by the state companies actually show a lower degree of market orientation than in private organizations, market orientation of the company is relatively higher when a company ownership is concentrated in the hands of non-state shareholders (Song, Wang, Cavusgil 2015).

Besides, the authors choosing the direction of the scientific analysis based on considerations concerning lack of state property management mechanism in Republic of Kazakhstan; insufficient legal support of existence and realization of public relationships, where state property is an object of such relationships; limitations of theoretical, methodological and conceptual justification of the essence, content, structure of state property management, especially with the use of corporate actors opportunities; fragmentation of levels and branches of governmental management, lack of clearly defined objectives of the state property; poor performance of state property management monitoring; lack of transparency in management procedures.

Since the 1980s the number of quasi-governmental organizations has increased dramatically in most of Western European countries, and it became an expression of the obvious preference of politicians for development of neo-institutional economics (Thiel 2004). Intensification of this process in the Republic of Kazakhstan began only in 2005-2007 when the fundamentals of modern state property management were laid through quasi-state organizations.

Governments around the world hold a wide range of property: from large areas of land for public housing projects to water supply systems and roads. As a rule, state property management is highly fragmented, the responsibility for each asset type has a certain public authority. Almost all countries manage various property classes in accordance with their own rules, often following traditional practices. However, researchers note that current requirements for state assets management require usage of economic efficiency and effective organizational management standards in assessing the quality of governance (Kaganova, McKellar 2006). At the present stage of development legislation does not reflect particular qualities of corporate governance as a way of state asset management on the right level (Buribayev 2009). The bulk of state property in the current conditions make state-owned shares and state ownership interest in

business partnerships. Redefining the role of the state as a regulator and as a full-fledged participant of market relations determines the need to improve the efficiency of state property management, further development of the national companies, national holdings and other new corporate government agencies engaged in public administration in the management of state property. Progress in the development of integrated property rights arises, as a rule, as the demand of the market reaction to the legal regulation of property rights (Rapaczynski 1996). The new direction of the legal and organizational support of economic reforms is the implementation of the law-making process on the settlement activities of corporate structures (specially created companies) carrying out management of state property.

The abovementioned factors became the basis for determining the direction of research, its nature, specificity, structure and methods of research.

The theoretical significance of the study is due to conduct a comprehensive ordering of existing and development of new scientific developments in the field of legal support of the management of state property, the status of entities that control the property of the state. The work may serve as a basis for further research of the legal aspects of state property management.

1. Methods

The normative legal basis of the study was the law of the Republic of Kazakhstan and foreign countries. In the analysis of the legislation on specific issues of subjects' status, management of state property of the Republic of Kazakhstan was held relevant comparison with the provisions of the legislation of some foreign countries: the countries of the European Union, China, the countries of the Eurasian Economic Union.

As a practical basis of research subjects the practice of managing state property, and authorities engaged in the administration in this area, the current legislation in the field of property management, information statistical authorities, data on the financial performance of state property management, as well as court decisions were used. The methodological basis of the research are dialectical, logical, legal, social and legal, comparative legal, system-structural, and other methods. Historical and legal methods were used in investigating the trends of state property management doctrine development and its legislative consolidation.

In the course of the study the provisions of doctrinal philosophy, general theory of law, constitutional law, administrative law and civil law were applied. The statistical data on the activities of government authorities and corporate entities that manage state property were analyzed.

2. Results

Modern financial and economic conditions highlight the issue of legal maintenance of state property management, due to a significant change in its role and importance for the national economic system. Public sector of the economy requires maintaining of state functions and further effective development of society as a whole. Further effectively in solving the issues of state property management is associated primarily with the adoption of new and amended and supplemented existing legislation (but not secondary regulations), as well as with the further settlement of the matters of the relationships normative legal acts of equal and different legal force governing in management of state property relations of civil-legal, administrative and legal methods.

It was revealed that one of the newest areas of legal and organizational support of economic reforms is the implementation of the law-making process on the settlement activities of corporate entities engaged in the management of state assets.

State property is managed by a system of state authorities belonging to the executive branch of government. Taking into account the special importance of this object of management for the country's economics, this work is headed by the President of Kazakhstan. Direct management by the state property is currently carried out by the Government of Kazakhstan. At the same time, the authors should note the growing trend in delegation of authority of the central executive authorities of the National Welfare Fund 'Samruk-Kazyna', the line ministries through the use of state representatives in the institution of legal management bodies with state participation. These fund activities should be aimed at the formation of the state welfare. Building state welfare aims ensuring respect for social rights and increase the role that the state assumes in promoting economic growth and international competitiveness (Pereira 1997).

The constitutional powers of the Government of the Republic of Kazakhstan on state property management of the organization is not limited by the scope of the owner of their powers only.

Organization of property management is just a component of management process, the essence of which is to coordinate the individual elements of the system to achieve the functioning of the mutual correspondence of its parts through the implementation of property rights. As the 'property management manifests itself in various forms' (Alexander 2012), state property management should be considered as more complicated process and system which is manifested

through variety of forms: law-making, law enforcement, control, supervision, monitoring, administration, etc., where the implementation of the state-owner of its authorities is necessary, important, but not the only element. Lack of supervisory powers of maslikhats in the management of public municipal property, one of the most important areas, largely determine the financial health of the relevant territory is contrary to the essence of the maslikhats, as defined in the Basic Law that maslikhats express the will of the population of respective administrative-territorial units and with taking into account the national interests determine the measures needed for its realization, and control their implementation.

There are several basic characteristics of corporate governance of state owned entities identified. Firstly, the formation of state-owned assets, and secured for a manager-legal entity with state participation, carried out through the transfer in payment of its share capital previously established or being established in the future of legal entities. Secondly, the activities of these companies are accountable to the state represented by the authorized bodies. Third, the implementation of the various operations with property is carried out, at least, in strict reporting to the public authority or with its consent or permission. Fourth, the state authorities monitor the consistency of business entities, state asset managers.

The conducted analysis allowed to identify the main problems which are of a systemic nature that are the major inhibiting factors in achieving the goal – increasing the efficiency of legal support companies managing state assets:

- inconsistency of the current state of legislation regulating the of companies' activities, government asset managers, the level necessary and sufficient legal support of the main directions of the proclaimed and implemented the state policy in this area;
- existence of a significant number of shortcomings in the legal regulation of administrative relations, which are the subject of state-owned assets, the lack of effective mechanisms of public control over the activity of the companies, resulting in the existing opportunities for corruption;
- a lack of proper systematization and unification of legislation in the sphere of activities of management companies that do not provide general principles of their work, the basics of the legal status, rights and obligations, the general rules of behavior in relationship management.

3. Discussion

The objects of the study are legal relations in the sphere of state property operation. The research process was carried out in the following sequence. In the first phase have been identified legal characteristics of the category of 'public property', carried out a study of the legal content of the term 'public assets' as the most important object of state ownership. It was further defined the basic parameters of the right to ensure the management of state property in the Republic of Kazakhstan; The analysis of the provisions of the Constitution and current legislation of the Republic of Kazakhstan, the defining relations for the realization of the state property management; studied the constitutional authority of the Government of the Republic of Kazakhstan on state property management; identified state property management system. Systematization of the principles, techniques and procedures of local governance in the management of state property was conducted; the corporate governance system of state property, the analysis of the status of corporate governance subjects was reviewed. The analysis of the administration system for managing state property activities was carried out; the legal basis for improvement of companies, government asset managers is examined.

As a result, the complex of problematic issues identifying the mechanism of legal support in state property management was considered, an attempt to determine the legal status of state property management entities in the Republic of Kazakhstan, theoretical understanding of the methods of public administration in the sphere of state property management were conducted. It was established specifications that make up the legal construction of the concept of 'public property', analyzed the relationship between the concepts of 'state assets' with related legal categories, stated special value of state assets in the system of objects of state ownership. It was defined the main parameters of the legal department to ensure the mechanism of state property; the main trends in the evolution of legislative provision of management state property. The content of the constitutional powers of the Government of the Republic of Kazakhstan on state property management is revealed. It is determined the system of state property management authorities, found out modern trends of their functioning. The role of local authorities in the mechanism of state property management is reviewed.

It was revealed the corporate state property management system, defined its subjects, studied their organizational and legal forms of activity, summarized the principles of their activity on state property management.

The administrative authorities of state property management are systemized. The authors defined the constitutional foundations of their interaction.

There are also shown the problems of legal ensuring the effective state assets management, and some recommendations for law-making in this area are given.

Conclusions

While performing the study the authors consistently tracked the trend of development of legal maintenance of state property management in the Republic of Kazakhstan, aimed at the formation of the state as an effective owner.

The crisis by their nature changes which take place in the present stage of development of the world economic system make the governments of almost all countries around the world to review state policies in the area of economic relationships. It might be noted increasing of state involvement in economic relationships, introduction of administrative methods of the entire management of the economy, and not just in public sector.

In order to control public funds to maintain the financial well-being of strategic state companies are increasingly going on the way of their acquisition in the property through the acquisition of shares in the authorized capital, shareholdings. State control of the economy is becoming a major stabilizing by regulating economic relations. That is the current situation requires not only strengthening the role of government in the economy, as well as improving the efficiency of the state management of the economy with the optimal combination of the controlling influence of the state and democratic principles of economic activity.

State property management is currently being implemented through the activities of state authorities and specially created corporate structures. The state becomes an active participant of economic processes and provides state property management. State property management allows to achieve and use inaccessible for private sector of economics concentrating of resources required for overcoming the negative effects of the global economic crisis in the Republic of Kazakhstan, the decisions in these difficult economic conditions, the implementation of major social, environmental, scientific and technical programs.

Multidepartmental administering of membership functions in the sphere of state property management activity is not conducive to the development of a uniform policy, unified approach to strategic planning and implementation of state property due to the presence of various corporate interests pursued by public authorities in their activities.

The study revealed the shortcomings of the existing system of administration activity by the companies in state assets management which boil down to a lack in the activity of central executive authorities, local executive authorities of common policy and common approach in the management of state-owned shares (shares in the authorized capital) legal entities with state participation, due to various corporate interests.

The process of formation of the state as an effective owner in market conditions nowadays has not found its worthy completion. The government is looking for new ways and methods of influence on economic relations corresponding to the construction in the Republic of Kazakhstan of social, legal state in a new world financial and economic challenges. Implementation of the right of ownership in respect of state property allows you to create directly the necessary and proper behavior of managed entities. Implementation of property rights associated with other ways of state-powerful influence brings state property management process to a new level where all interests are subordinated to the public will.

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