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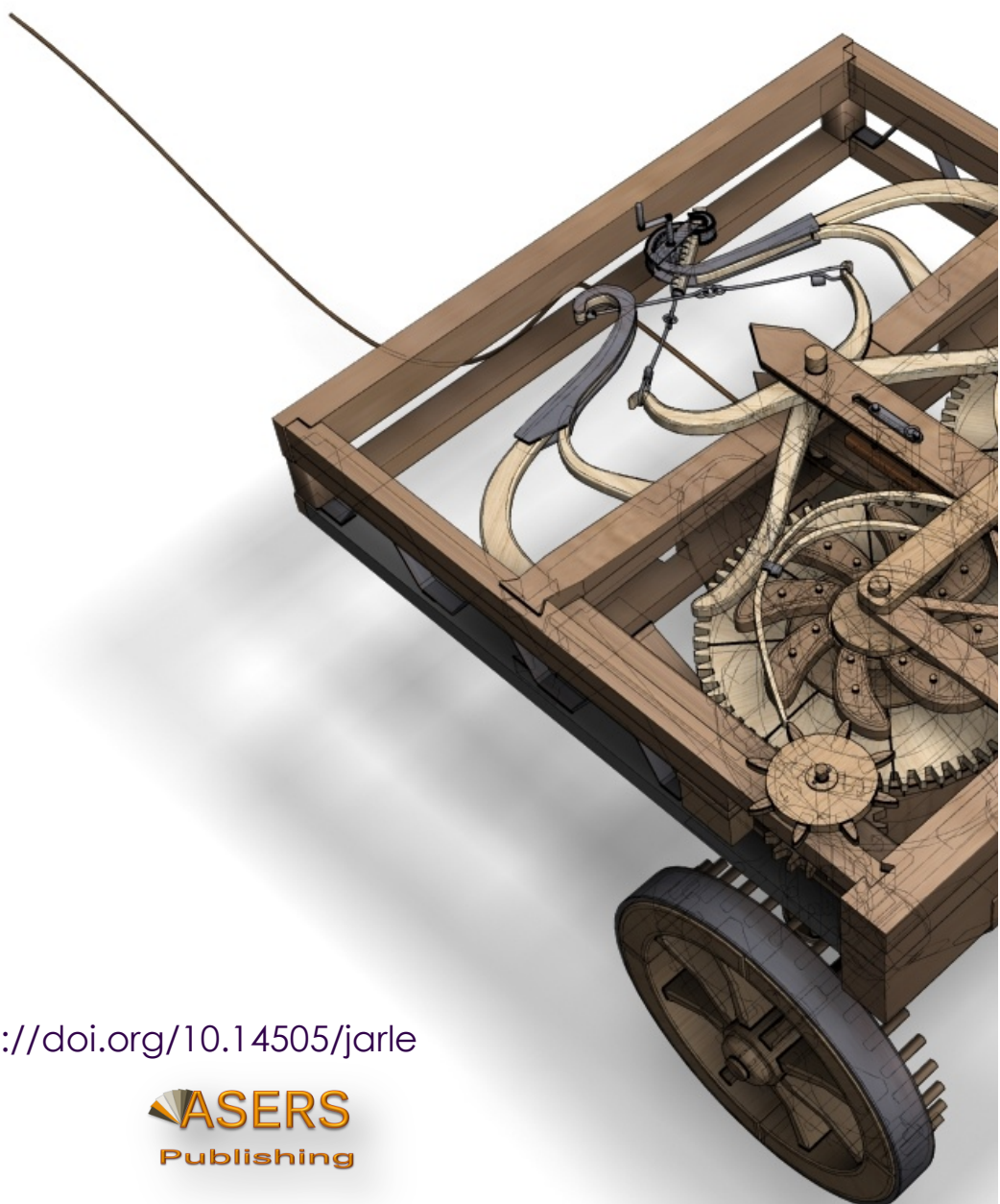
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Journal of Advanced Research in Law and Economics

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Abstract

Formation of social statehood in Kazakhstan requires a lot of work in the form of state control mechanisms aimed at creating conditions for a dignified human life. 25 years of development of Kazakhstan as an independent state did not ensure the formation of social laws that would fully guarantee the realization of the social rights of the individual in accordance with recognized standards. Development of socially organized state in Kazakhstan requires active work of the public sector on the formation of high-quality social protection system. The article examines the state-legal basis of social welfare in the Republic of Kazakhstan, problems of formation of the Republic of Kazakhstan in social legislation and social standards.

The aim of the investigation is a comprehensive study of the problems of legal regulation of the state management in the sphere of social protection with the development of concrete proposals to improve the regulatory framework of Kazakhstan in relation to the creation of conditions for the realization of social rights of the individual. The methodological basis of the research is grounded on the principles of knowledge of social and legal phenomena in the area (including ideas, concepts and theories) in their historical development,

interconnection and interdependence of the theoretical and applied; general scientific approaches – systematic, integrated, personal and social-activity, historical and legal, comparative legal, social and economic; empirical methods – survey, study and generalization of experience, reviews and reports on the activities of the social services in the Republic of Kazakhstan and its territorial bodies, materials of state statistical observation. As a result of the analysis the problematic issues of governance of social protection system in the Republic of Kazakhstan were examined; state-legal mechanism of regulation of social protection of the population was studied; the problems of formation and development of norms of social rights, taking into account national peculiarities of the Republic of Kazakhstan, were identified; it was studied the mechanism of implementing the principle of assurance of social security; the features of legal regulation of social protection standards. The results can be used in the development of national legislation in the field of social security, in the form of measures to improve governance mechanisms in this area. They may be useful for the public authorities in the implementation of work while providing of social standards.

Keywords: governance, social protection, social standards.

JEL Classification: G18, H55, H83.

Introduction

During the construction of market relations in the years of sustained economic growth in the current financial and economic global crisis, social priorities remain for the public authorities in the Republic of Kazakhstan of the highest priority. Even in a difficult economic and financial situation the state grounded itself on the priority values of the state in social sphere as the most important factor determining the effectiveness of the government, capable in all conditions to fulfill the undertaken social obligations. Personal responsibility of senior representatives of the executive authorities for fulfilment of declared by the President of the state decisions in the sphere of social problems is imbedding.

In these circumstances, it is of particular urgency and relevance of the scientific analysis of the problems of the state and prospects of development of the social security system, the practice of social-security legislation, the effective and full implementation of the social rights of the individual in the Republic of Kazakhstan. The necessity of an active social policy aimed at maintaining the standard of living and social protection of the most needy citizens makes extensive use of the practice of social protection and support of social standards for the population.

Social standards must be scientifically based guidelines effective socio-economic development and the formation of the relevant criteria for the level of a civilized society the benefits of consumption base for the justification of measures to improve the standard of living and its alignment to the territorial aspect. Their adoption should facilitate the efficient allocation of resources, ensuring better meet the needs of the people, the best conditions for the development of the individual. The use of multi-level social normalization is necessary to justify the budget financing of social development processes dimensions of social protection and support of the population, in connection with what is currently active work in this field.

An important guarantee of overcoming poverty is the need for a legally enforceable right, the guarantee of citizens with a per capita income does not exceed the subsistence level for a pre-emptive right to social assistance for federal, republican and local programs.

1. Literature review

The topic of the present study was investigated by various experts, including the authors of the article (Khamzina, Buribayev 2015; Khamzin, Khamzina 2016), in fragments, has not yet been the subject of comprehensive monographic study in the Kazakh legal science.

Scientists were always interested in the problems of government social protection, not only as an independent scientific field but as in conjunction with the general theoretical and constitutional and legal issues determining the nature of the welfare state, the system of constitutional social rights and guarantees of their implementation, the execution state of its social functions, in conjunction with social interests, the state social policy, governance frameworks and other legal phenomena as well (Castells 2008; Korkut *et al.* 2015; Daly 2003; Newman *et al.* 2004; Nelson 2013).

The process of gaining independence the Republic of Kazakhstan, the construction of the new constitutional and legal foundations of the state and the national legal system, the development of social

institutions in a market economy resulted in a drastic change in the definition of the foundations of the existence and development of the social sphere, public administration. Such a turning point was in need of a qualitatively new scientific understanding and justification had to be a new legal regulation of relations arising in the implementation of social rights. The currently available studies of foreign scholars in constitutional law devoted to the study of general issues of constitutional and legal framework of social protection, the problems of constitutional and legal mechanisms to ensure the implementation of social rights, the social function of the state of execution (Mitchell *et al.* 1999; Holzmann and Jørgensen 2001; Gill and Meier 2000). The difference between the scientific research carried out by the previous analysis is complex nature of legal regulation of social protection management; definition of the general mechanisms of action of the government in the field of public relations; in the substantiation of effective opportunities to improve the efficiency of the legal provision of social protection.

It should be noted that sufficient scientific and theoretical basis of this study, emerging from the works of foreign scientists, they might be special monographs (Heredero 2009) or some separate publications as well (Sabates-Wheeler and Devereux 2007; Massuanganhe 2014). One should also take into account the important fact that Kazakhstan's social-security legislation, as the regulatory framework of this study, has in common with the relevant legal sectors of foreign countries. Kazakhstan develops its own system for ensuring the social rights of the individual types and forms of social protection are specific. Depending on the level of economic development, political system, the state will guide the country, or that society chooses for himself only acceptable at the present stage of its development model of social protection, a form of regulation of social-security relations. Accordingly, the existing research and development of foreign scientists on the problems of the article used exclusively from the point of building a theoretical foundation work.

The results of the investigation are based on sociological study positions (Barrientos and Hulme 2005), political (Seale 2013; Norton *et al.* 2002), economic sciences (Roth 2004; Holzmann and Jørgensen 2001), as well as the analysis of foreign experience of certain aspects of scientific problems that occur in their respective jobs was carried out (Jessop 1999; Musalem and Ortiz 2011).

2. Methods

The specificity and complexity of the topic of scientific research led to the use of a whole range of general scientific and special scientific methods of knowledge, including: analysis, synthesis, comparison, analogy, deduction, induction, abstraction and comparative legal, formal and legal, political and legal method of modelling.

Based on the principle of comprehensiveness, the study takes into account both political and socio-economic aspects of the formation and development in the field of social welfare legislation and social standards.

As regards the author's concept of identifying and understanding the laws of development of public administration in the field of social security, the main methods are the description and analysis of situations caused by socio-economic features of Kazakhstan, the current state of its social protection.

3. Results

Kazakhstan requires renewal of the legal and regulatory framework as the basis of the effectiveness of state management in social processes and the successful implementation of the pledge of new initiatives in the social sphere.

The main problems of the current state of social legislation are: collisions, outdated regulations, the availability of declaratory regulations, ie laws without adequate secondary regulatory legal framework or other implementation mechanisms; inconsistency of certain normative legal acts of the Republic of Kazakhstan's international obligations, the presence of a large number of laws and regulations with multiple reference provisions. It is presumed that in some sectors the legislation update is not fast enough, resulting in its conflict with the rapidly changing social trends. It is necessary to strengthen control by the public authorities and the society on the implementation of the legislation and the provision of social obligations of the state. The implementation of certain standards is difficult because of their declarative nature, lack of regulation of certain processes, lack of appropriate secondary regulatory framework, it should be noted the formal implementation of the legislation, the presence of obsolete and redundant provisions.

In order to eliminate the factors hindering social development it is necessary to review, renew and improve social legislation regularly. In the first stage of social modernization is necessary to conduct a comprehensive analysis of the effectiveness of the regulatory framework in the social sector with the involvement of local executive bodies, experts and non-governmental organizations. It is necessary to identify the rules and

regulations that require revision in the light of the reforms in the social sphere. As a result of this work it is necessary to develop specific proposals to improve the legislation regulating the social sphere.

The Constitution of the Republic of Kazakhstan in the Article 28 sets a minimum list of social facts in connection with the onset of which is guaranteed by the provision of social security: age, disability, loss of breadwinner, a list of other grounds established by the laws of the republic. However, to these reasons traditional law classifies the retirement age, disability, loss of breadwinner, childbirth, temporary disability, participation in hostilities, unemployment. However, depending on the specific historical conditions, the economic situation of the country, political development of each state determines for their system of social protection, legal facts which relate to the social importance upon the occurrence of which should be recognized for the citizens of the possibility of exercising the right to social security.

Social legal facts are certain conditions that determine the likelihood of material insecurity for the citizens due to the loss of income due to disability, old age, the emergence of family responsibilities, loss of the breadwinner, the lack of demand for labour (unemployment) and other circumstances. In the Republic of Kazakhstan at the present stage of the law following life circumstances are defined as social facts: disability (both general and special, in whole or in part); achievement of the retirement age; loss of the breadwinner; work in specific working conditions; birth of a child; adoption, child adoption; monthly income of a person or a whole family below the poverty line; participation in hostilities; military service, work in law-enforcement bodies; living in areas exposed to environmentally adverse factors; raised in a family of four or more minor children living together; application-to-face political repression measures; unemployment and some other.

Only in recent years in Kazakhstan were successfully applied these new forms of social protection such as social insurance for various reasons, payment for the maintenance of the child up to a year, at a certain level of income - up to 18 years, the payment of benefits to a caregiver of a disabled child.

The above analysis of the system of socially important legal facts (risks), recognized as such by modern Kazakh legislation, reveals their disunity, in general, the lack of a single state approach to the definition of a legal fact as socially significant.

The basis of the law-making process in the field of social-security relations should be strategic planning and forecasting of social impact, a clear relationship to the state worked out the social indicators. The development of social legislation should be aimed at improving social standards, bringing them into line with global, recognized rules and parameters of action on social protection, care, assistance, the emergence of new forms of social goods corresponds with the above processes.

Huge legal framework regulating social-security relations, the contradictions in the content of normative legal acts that constitute social and security laws, the absence of legally enshrined a common approach to the management of social sphere of social policy and the principles of implementation of relationships on social protection in the aggregate reduce the quality of the legal regulation in the field of social security.

In order to deliberate movement of the Republic of Kazakhstan on the way of building the welfare state required statutory indicators of decent living conditions and quality of life parameters. The state should determine what specific indicators form the quality of human life, the family at the present stage, corresponding to the level of socio-economic development of the country, to determine indicators in the legal space, digital parameters reflecting the quality of life in the social state.

The presence of a wide range of social standards and compliance with the quality of life is a sign of the welfare state. By implementing its functions, the welfare state must ensure the optimal cost of living in case of social risks, but not at the expense of social welfare, but by the direction of budgetary funds; strictly regulated by the quality and amount of social security in old age, disability, loss of breadwinner, and other social factors. State social policy should be implemented in accordance with the regulations laid down by social standards.

4. Discussion

Implementation of the study leads to the conclusion that today the state has no unified approach to the recognition of socially significant risk of certain circumstances, and therefore cannot determine the target groups in need of social welfare. In our opinion, it should start from the genesis of the science of social security law, namely the recognition of the right to social security, primarily for disabled members of society. In addition, traditionally the following circumstances the law binds the emergence of the right to social protection: maternity and childhood, participation in hostilities, in the experience of working in hazardous and dangerous conditions, income below the subsistence minimum. Each state defines a specific national system of socially significant factors.

In our opinion, two risks should be highlighted as the undisputed social factors: disability in a broad sense, due to the objective circumstances of the impossibility of employment and income of individuals, families below the poverty line, that is, poverty, and other social risks must undergo the procedure of inventory for compliance with the current priorities social policy of Kazakhstan. The social security system needs to be completely revised from the point appropriateness of the existing and introduction of new social facts, which will be recognized as such in the modern way of socialization of state of the Republic of Kazakhstan.

Article 28 of the Constitution contains the core provisions: a citizen of the Republic of Kazakhstan is guaranteed a minimal pension, social security in old age, in case of illness, disability, loss of a breadwinner and other legal grounds. Voluntary social insurance, creation of additional forms of social security and charity are strongly encouraged.

It implies from the above constitutional provision that social security in old age, in case of illness, disability, loss of a breadwinner and other legal grounds raised to the rank of constitutional rights and their implementation is guaranteed.

Whichever way would social legislation be changed (the state can recognize the social importance of a particular fact at this stage of its development, while others not to recognize socially valuable), there may be difficulties with the financing of social policies at the state and local levels, the legislator may be due to lack of funding to refrain from funding social security in connection with certain circumstances, but by age, in the event of illness, disability, loss of bread-winner will be guaranteed by the state to provide social security, even in the case of transposition of the obligations under the relevant funding to other sources, in addition to the state budget.

The Principle of warranted social security corresponds to the principle of guaranteeing a minimum level of social protection, security assistance. Current national social policy is based on the need to provide social protection measures on all grounds to the minimum guaranteed level, in accordance with the cost of living, and additional forms of social protection must be provided with the personal participation of the citizens in the shaping tools – funding source. The Constitution of RK guarantees minimal pension payment to all citizens of the Republic of Kazakhstan who have reached retirement age. The minimum pension is determined annually in the Law 'On republican budget' for the relevant period and is a constant, not changing in a calendar year, indexed according to inflation degree.

The social rights in the Constitution are enshrined in the section II 'Man and the Citizen', with some social rights such as the right to freedom of labour, free choice of occupation and profession, to social protection against unemployment.

Appearance and possession of other social rights associated with owning citizenship of Kazakhstan, only citizens in need of housing, it is available at an affordable price from the state housing funds in accordance with standards established by law, a citizen of the Republic of Kazakhstan shall be guaranteed a minimum wage and pensions, social security age, sickness, disability, loss of a breadwinner and other legal grounds, the citizens of the Republic have the right to free, guaranteed, statutory health care.

Crucial to the implementation of the social guarantees enshrined in the Constitution of the Republic of Kazakhstan assumes the formation and use of social standards. Social standardization is a new area of regulation of the most important parameters of social development, aimed at forming a unified approach to the various population groups, ensure equitable nature of social protection and the implementation of constitutional guarantees of the rights of citizens.

In our opinion, the standard of social welfare should define the minimum required level of social guarantees, expressed in the most important social norms established by the legislation. Social standards system should be formed on the basis of the necessary guarantees of social rights and should not be limited to the field of pensions, services, determine the value of the subsistence minimum. Scope of standardization in the field of social security more widely, it should include the most important, a general, long-term social indicators.

The main types of minimum standards of social security it is advisable to consider include:

- minimal dimensions of social benefits and payments;
- the minimum amount of social insurance payments;
- a minimum level of pension provision by voluntary and professional pension savings;
- lists of categories of people eligible for social assistance;
- a minimum level of social assistance;
- the standards necessary level of substantive content, requirements and technologies of social services to all categories of recipients;
- rules providing of social services and related agencies;
- standards of personnel, logistics and other security agencies of social services.

We believe that the introduction and construction of the Republic of Kazakhstan in the system of social standards will significantly increase the effectiveness of social policies. This mechanism is fully to implement the basic principle of targeting in the provision of social protection and social justice measures.

The tasks designed to address the law on social standards, which should have a framework, basic by its nature. The law should fix a uniform legal and regulatory framework and the definition of general application of social standards to ensure the implementation by the Constitution of the Republic of Kazakhstan of social guarantees. At the same time the legalization of the system of social standards should not be frozen mechanism standards on the one hand should be reviewed periodically by the state with the growth of economic well-being of the country, and on the other, to be quite predictable in the short and medium term in order to build and maintain an adequate social policy.

Along with the above, we believe it is necessary to note that the system of social standards and financial support for their implementation regulations require different approaches to territorial differentiation. In the Republic of Kazakhstan two territories have preferential social and economic status, it is the territory affected by the environmental disaster of the Aral Sea and the Semipalatinsk nuclear test site, recognized as an ecological disaster zone. We believe that the people living in these areas, and persons recognized as victims of the effects of environmentally adverse factors, the increase of social standards of social benefits, assistance and social services need to be provided.

We offer as promising directions of development of the social-security legislation as a mechanism for the implementation of the constitutional social guarantees, consider two interrelated areas: firstly, the consolidation of mandatory normative guarantee of the right to social security is not lower than the subsistence level; secondly, creating conditions for the material state for all categories of citizens who, for objective reasons, are unable to work, and the level of their support should not be below the subsistence minimum. At the same time, while working with the stated problem, it should be noted that the level of social security should be adjusted depending on the growth of the financial capacity of the state, social and economic conditions, proceed from the targeting of forms of social support. In these directions for further development of social legislation requires a full audit for compliance with the provision of social benefits for all recognized in our state social risks subsistence level.

Conclusions

The implementation of the scientific analysis of the main assumptions is that the formation of a truly social state is due, firstly, to the conduct of the state social policy aimed at creating the conditions for a decent life for its citizens and the free development of personality, adequate capabilities of the state, secondly, to the establishment and functioning of mechanisms for the full implementation of the system of constitutional rights to social security. Constitutional and legal construction of the fundamental principles of the Republic of Kazakhstan allows devices to draw a conclusion on the definition of the scope of social security as a priority in the functioning of the system of values as a state and society as a whole, and the government in particular.

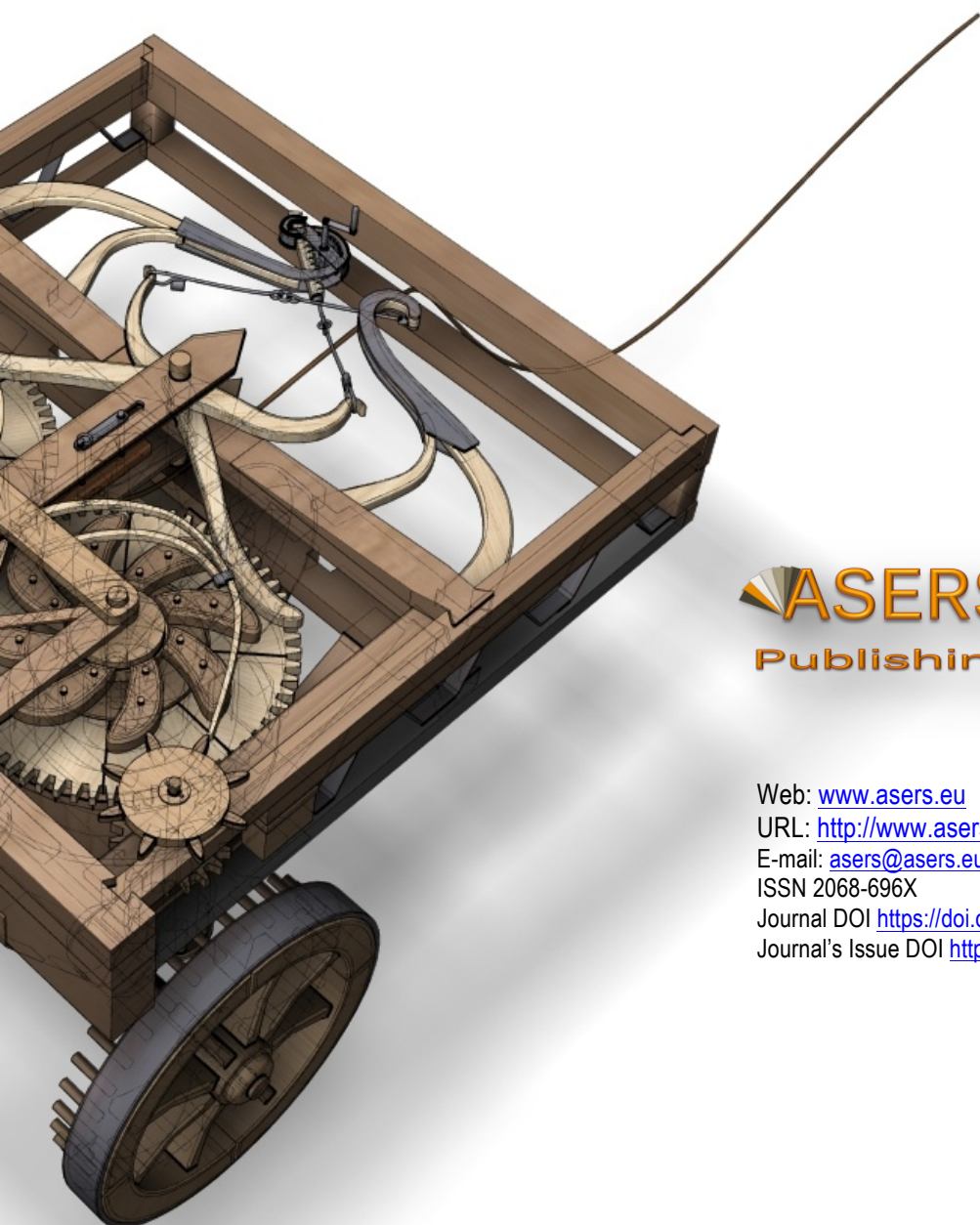
In the conditions of welfare formation state social policy acquires the status of the priority directions of domestic public policy. Modern social policy of the Republic of Kazakhstan departs from the principle of solidarity financing of social benefits is based on the basis of market relations, which is peculiar to the individual liability of an individual for the level of social security; social spending must correspond to real economic capabilities of the state, allows you to adjust the financial flows on social services depending on the state of economic relations in the society. At the present stage of social reforms, the main tasks of government institutions are the creation of an effective system of social welfare and social justice, which provides a mechanism for state social guarantees. In this area, the social standardization should become a new area of regulation of the most important parameters of social development by the state authorities, local self-government bodies in the modern world. Standards in the field of social security, based on the essence of the social organization of our country, should be directed to the creation and appreciation of the minimum required level of material security, social services for all categories of disabled people, while the basis for the concept of 'disability' should be based on objective circumstances inability to exercise self-employment, employment.

The modern agenda rises the problem of developing of a new methodological approach to the improvement of legislation in the social sphere, aimed at creating a single framework regulation and governance of social protection sphere, meeting modern social policy priorities of Kazakhstan in the framework of the progressive formation of a social state.

References

- [1] Khamzina, Z.A., Buribayev, Y.A. 2015. Evaluation of the Reform Efficiency in Public Social Sector Management of the Republic of Kazakhstan. *Mediterranean Journal of Social Sciences* 6(3 S5), DOI: 10.5901/mjss.2015.v6n3s5p191
- [2] Khamzina, Z.A., Buribayev, Y.A. 2015. Problems of Overcoming Poverty in the Republic of Kazakhstan. *Mediterranean Journal of Social Sciences* 6(3 S5), DOI: 10.5901/mjss.2015.v6n3s5p169
- [3] Khamzin, A.S., Khamzina, Z.A. 2016. Constitutional Law Fundamentals of the State Administration of the Social Sphere in the Republic of Kazakhstan. *International Journal of Environmental and Science Education* 11(12): 5237-5249.
- [4] Castells, M. 2008. The New Public Sphere: Global Civil Society, Communication Networks, and Global Governance. *The Annals of the American Academy of Political and Social Science* 616(1): 78-93.
- [5] Korkut, U., Bucken-Knapp, G., Cox, R.H., Mahendran, K. 2015. *Discursive Governance in Politics, Policy, and the Public Sphere*. Palgrave Macmillan US.
- [6] Daly, M. 2003. Governance and Social Policy. *Journal of Social Policy* 32: 113-128.
- [7] Newman, J., Barnes, M., Sullivan, H., Knops, A. 2004. Public Participation and Collaborative Governance. *Journal of Social Policy* 33: 203-223.
- [8] Nelson, M. 2013. Making markets with active labor market policies: the influence of political parties, welfare state regimes, and economic change on spending on different types of policies. *European Political Science Review* 5: 255-277.
- [9] Jessop, B. (1999). The Changing Governance of Welfare: Recent Trends in its Primary Functions, Scale, and Modes of Coordination 33(4): 348–359.
- [10] Seale, E. 2013. Coping Strategies of Urban and Rural Welfare Organisations and the Regulation of the Poor. *New Political Economy* 18(2), DOI: 10.1080/13563467.2012.664124
- [11] Heredero, A.G. 2009. Social Security: Protection at the International Level and Developments in Europe. Council of Europe.
- [12] Mitchell, O.S., Myers, R.J., Young, H. 1999. *Prospects for Social Security Reform*. Cloth.
- [13] Musalem, A.R., Ortiz, M.D. 2011. Governance and social security: Moving forward on the ISSA good governance guidelines. *International Social Security Review* 64(4): 9–37.
- [14] Norton, A., Conway, T., Foster, M. 2002. Social Protection: Defining the Field of Action and Policy. *Development Policy Review* 20(5): 541–567.
- [15] Sabates-Wheeler, R., Devereux, S. 2007. Social Protection for Transformation. *Development Policy Review* 38(3): 23-28.
- [16] Barrientos, A., Hulme, D. 2005. Chronic Poverty and Social Protection: Introduction. *The European Journal of Development Research* 17(1).
- [17] Holzmman, R., Jørgensen, S. 2001. Social Risk Management: A New Conceptual Framework for Social Protection, and Beyond. *International Tax and Public Finance* 8(4): 529–556.
- [18] Massuanganhe, I.J. 2014. Touching the poor: Re-thinking on millennium development goals by promoting participatory governance and local development. *Journal of Public Administration and Policy Research* 6(4): 59-68.
- [19] Gill, J., Meier, K.J. 2000. Public Administration Research and Practice: A Methodological Manifesto. *Journal of Public Administration Research and Theory* 10(1): 157-199.
- [20] Holzmman, R., Jørgensen, S. 2001. Social Risk Management: A New Conceptual Framework for Social Protection, and Beyond. *International Tax and Public Finance* 8(4): 529–556.
- [21] Roth, K. 2004. Defending Economic, Social and Cultural Rights: Practical Issues Faced by an International Human Rights Organization. *Human Rights Quarterly* 26(1): 63-73.

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