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SOME ASPECTS OF LEGAL SUPPORT OF SANITARY AND EPIDEMIOLOGICAL SAFETY OF THE REPUBLIC OF KAZAKHSTAN

The article discusses the actual issues of legal provision of sanitary and epidemiological safety in the Republic of Kazakhstan. It is also very important that in modern conditions, the health of society is largely determined by sanitary and epidemiological well-being, the real provision of human rights, society and the state to a safe environment and disease prevention, and the quality of consumer services. Unfortunately, both the executive branch nor legal science paid sufficient attention to these issues, and there are almost no scientific publications on this issue. The conducted research is fragmentary, and the time is quite outdated. For example, the sanitary legislation itself was comprehensively studied only from the point of view of the organization of health and social hygiene. These issues have not been subjected to a comprehensive and comprehensive analysis in the legal literature, within the framework of special scientific legal studies. In these conditions, it is important and necessary to analyze the current sanitary legislation in Kazakhstan and develop proposals for its improvement.

Key words: legal support, environmental support, sanitary and epidemiological safety, sanitary and epidemiological welfare of the population, sanitary and epidemiological rules and regulations.

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Қазақстан Республикасының санитарлық-эпидемиологиялық қауіпсіздігін қамтамасыз етудің кейбір аспектілері

Мақалада Қазақстан Республикасында санитарлық-эпидемиологиялық қауіпсіздікті құқықтық қамтамасыз етудің өзекті мәселелері қарастырылады. Бүгінгі таңда қоғамдық денсаулық сақтау адам, мемлекет және қоғамның қауіпсіз тіршілік ортасына құқығын қамтамасыз ету және де жұқпалы аурулардың туындауын болдырмау, сонымен бірге барлық тұтынушыларға арналған қызмет көрсетудің сапасы санитарлық-эпидемиологиялық салауаттылықпен байланысты. Өкінішке қарай, атқарушы билік те, заң ғылымы да бұл мәселелерге жеткілікті көңіл бөлмеген, осы мәселе бойынша ғылыми зерттеулер, жарияланымдар жоқтың қасы. Жүргізілген зерттеулер көлемі аз және уақыт талабына байланысты ескірген. Мәселен, санитарлық заңнаманың өзі тек денсаулық сақтау және әлеуметтік гигиена тұрғысынан ғана жан-жақты зерттелген. Арнайы ғылыми-құқықтық зерттеулер аясында заң әдебиеттерінде жан-жақты және кешенді талдаулар жүргізілген жоқ. Бұл жағдайда Қазақстандағы қолданыстағы санитарлық заңнаманы талдау және оны жетілдіру бойынша ұсыныстар әзірлеу маңызды әрі қажетті болып саналады.

Түйін сөздер: Құқықтық қамтамасыз ету, экологиялық қамтамасыз ету, санитарлық-эпидемиологиялық қауіпсіздік, халықтың санитарлық-эпидемиологиялық салауаттылығы, санитарлық-эпидемиологиялық ережелер мен нормалар.

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Некоторые аспекты правового обеспечения санитарно-эпидемиологической безопасности Республики Казахстан

В статье рассматриваются актуальные вопросы правового обеспечения санитарно-эпидемиологической безопасности в Республике Казахстан. В современных условиях особенно актуально то, что общественное здравоохранение в большинстве случаев зависит от санитарно-эпидемиологического благополучия, фактического обеспечения прав человека, общества и государства для безопасной среды обитания и профилактики заболеваний, а также качества

предоставления потребительских услуг. К сожалению, ни исполнительная власть, ни юридическая наука этим вопросам с должной тщательностью не уделяют внимания, и по этому вопросу практически нет научных публикаций. Проведенные исследования носят фрагментарный характер, и по временному отрезку достаточно устарели. К примеру, само санитарное законодательство комплексно исследовалось лишь с позиции организации здравоохранения и социальной гигиены. Всестороннему и комплексному анализу в юридической литературе, в рамках специальных научных правовых исследований указанные вопросы не подвергались. В этих условиях важным и необходимым является анализ действующего санитарного законодательства в Казахстане и выработка предложений по его совершенствованию.

Ключевые слова: правовое обеспечение, экологическое обеспечение, санитарно-эпидемиологическая безопасность, санитарно-эпидемиологическое благополучие населения, санитарно-эпидемиологические правила и нормы.

Introduction

A prerequisite for development of the study in question was the challenges the country faces. On March 23, 2020 at the meeting of the State Commission for Ensuring State of Emergency, the President Kassym-Jomart Tokayev pointed out as follows: «The largest number of new cases of disease in the world are currently registered in countries where strict quarantine measures were introduced late. Taking into account the constantly incoming information, negative and positive experience of other countries, we should continue to train staff of our medical organizations in order to be prepared for any scenario. We cannot be calm and say that we have done everything possible. In a state of emergency, we will have to take drastic measures to ensure the well-being of citizens». The COVID-19 pandemic has dramatically changed our lives: the way we work, communicate with each other, study, or buy basic necessities. These changes affected the entire world, so-called “Digital Divide” became even more obvious (Tokayev 2020). To achieve this goal, the level of ensuring the sanitary and epidemiological safety of the country must be increased.

The problem of legal support of sanitary and epidemiological safety has become the first-priority issue at the global and national levels the contemporary challenges of spreading COVID-19 have posed a real threat to the sanitary and epidemiological safety of all countries of the world, including Kazakhstan. The observed sanitary and epidemiological situation is generally assessed as unfavorable, and its negative impact on the public health is becoming more and more noticeable. The current political, legal, socio-economic and other changes in our country have led to deterioration in the basic health indicators of the population and unacceptable limits of socially significant diseases. In addition, the economy, the interests of business and ordinary citizens of our country were affected by the pandem-

ic. It should be noted that the concept of “Ensuring sanitary and epidemiological safety” is a complex phenomenon, and the legal standards regulating the provision of sanitary and epidemiological public well-being are contained not only in health legislation, but also in other branches of legislation, in particular in environmental, land, water, phytosanitary, veterinary, labor legislation, as well as in legislation on radiation safety, on atomic energy and others. Analyzing and noting the contribution of scientific developments of domestic scientists in the field of legal science, it can be stated that there is still no comprehensive work devoted to legal problems of legal support of sanitary and epidemiological safety. Many conceptual related problems in modern legal science have not received sufficient understanding.

Materials and methods

When studying this problem, in particular, the latest doctrinal developments scientists, Kurmanova A. K., Sapozhnikova A. K., Czechowicz S., Skolotneva S.K., Zinovyeva E.G., Koptyakova S.V., Balyanskaya N.R., Stepashkov P.Y. many others, were used. When writing the study, a set of general and special methods of cognition were used: system and theoretical analysis, comparative legal, historical analytical, structural logical, etc.

Results and discussion

The Constitution of the Republic of Kazakhstan proclaims a person, his rights and freedoms as the highest value and contains real legal guarantees for recognition, observance and protection hereof, including the right to health protection (Constitution of the Republic of Kazakhstan, 1995). The right to a favorable environment is among the standard constitutional rights. A person can live with dignity and realize his potential only in a favorable environmental and sanitary-epidemiological environment.

It should be noted that at present, such problems as soil, atmospheric air, and water pollution are socially significant, so the ensuring sanitary and epidemiological safety for human existence at a certain stage of the development of society and the state is an urgent, vital necessity.

Given that the health of the nation is one of the most important indicators of the public well-being, the protection of public health should become the responsibility of all state bodies, organizations and citizens themselves. A set of measures (political, economic, legal, social, cultural, scientific, medical, sanitary and hygienic and anti-epidemic) aimed at preserving and strengthening the physical and mental health should be provided. Unfortunately, the political, legal, socio-economic and other changes taking place in our country have led to a deterioration in the basic indicators of public health.

Today, preserving and strengthening the health of citizens and society, in many cases, is determined by the sanitary and epidemiological public well-being of the population, actual enforcement of human rights and freedoms, society and the state, safe environment and prevention of any diseases, as well as the quality of consumer services. Unfortunately, neither the executive branch nor the legal science paid sufficient attention to the study of this issue. It may be said that there are almost no scientific publications on this matter. To date, the carried out researches are fragmentary and quite outdated. Health legislation was comprehensively studied only in terms of healthcare management and social hygiene. These issues have not been subjected to a comprehensive analysis in legal literature, within the framework of special scientific legal studies. Currently, there is only one study conducted by A.K. Kurmanova on the subject: "Environmental and legal support of sanitary and epidemiological well-being of the population" (Kurmanova 2007), which investigated only some aspects of environmental and legal support of sanitary and epidemiological well-being of the population in terms of indicators up to 2007 on the basis of already inactive legislation. In Russia, in 2005, S.K. Skolotneva defended her PhD thesis on the topic "Legal support of sanitary and epidemiological well-being of the personnel of the border authorities of the Federal Security Service", where the object of research was public relations arising in the field of ensuring the sanitary and epidemiological well-being of the personnel of the border authorities of the Federal Security Service as an integral part of ensuring the sanitary and epidemiological well-being of the population (Skolotneva 2005).

It should be noted that the concept of "Ensuring sanitary and epidemiological safety" is a complex phenomenon, and the legal standards regulating the provision of sanitary and epidemiological public well-being are contained not only in health legislation, but also in other branches of legislation, in particular in environmental, land, water, phytosanitary, veterinary, labor legislation, as well as in legislation on radiation safety, on atomic energy and others. Analyzing and noting the contribution of scientific developments of domestic scientists in the field of legal science, it can be stated that there is still no comprehensive work devoted to legal problems of legal support of sanitary and epidemiological safety. Many conceptual related problems in modern legal science have not received sufficient understanding and practical solutions. In this regard, the relevance of the study, both from the theoretical point of view and based on the needs of practical application, is obvious.

The problem of legal support of sanitary and epidemiological safety is a strategic task in the solution of which all state bodies and the public of the country should be involved. In the current conditions of the rapid spread of coronavirus, economic and social development, a real threat to the sanitary and epidemiological well-being of the population of Kazakhstan is increasing. The observed sanitary and epidemiological situation is generally assessed as unfavorable, and its negative impact on the health of the population is becoming more and more noticeable. A decrease in the responsibility of economic entities for implementation of measures on protection of workers' labor and promotion of environmental health, safety and harmlessness of manufactured products for the population has been revealed. The main special instrument of health legislation (Code of the Republic of Kazakhstan "On the Health of the People and the Health Care System", 2020). The adoption of the Code not only strengthened the role of the state in the field of legal regulation of this sphere of public relations, but also designated the state sanitary and epidemiological control and supervision as requiring special attention of the state.

At the same time, this legislative document contains no articles regulating the system of social and hygienic monitoring, responsibility of economic entities for health damage caused in connection with the violation of health legislation, requirements for safety of consumer products and provision of measures to prevent mass diseases among the population.

As the analysis of the appraisal data of the Law under consideration shows, it practically does not

provide for the possibility of economic incentives for legal entities and citizens, aimed at preventing diseases, preventing and eliminating the harmful effects of negative environmental factors on the human body. Some functions of the State Sanitary and Epidemiological Service of the Republic of Kazakhstan need to be adjusted, in particular, the most important element of ensuring the sanitary and epidemiological well-being of the population – the system of sanitary and epidemiological rationing, which includes the procedure for developing, approving, publishing, putting into effect and revising sanitary rules and requirements. The current Law does not reflect certain issues related to the hygienic certification of food products in terms of safety indicators. Attention is drawn to the fact that the Law under consideration does not contain an economic mechanism for the activities of bodies and institutions of the State Sanitary and Epidemiological Service of the Republic of Kazakhstan, which creates certain difficulties related to its financing, material and other support for employees of the sanitary service and health care. The continuing deterioration in the public health indicators, the strengthening of the negative impact of dangerous and harmful factors of the natural, industrial and social environment of a person on his health require the legislative consolidation of scientifically based legal norms and requirements obtained based on comparative analysis of foreign legal experience and practice of its application.

Based on all these factors the problem of improving and ensuring sanitary and epidemiological safety in settlements and its proper legal support, finding optimal legal means for development of these relations, elaborating proposals and recommendations for development of legislation on ensuring sanitary and epidemiological safety has become urgent.

An early outbreak of coronavirus infection was observed in the metropolis of Wuhan (China) at the end of December 2019. The source of spread of the infection was the Huanan Seafood Wholesale Market. Later, this process was spreading to other megacities and provinces of China, turning into epidemic. However, in January 2020, cases of COVID-19 were identified in Australia, Germany, India, Italy, the United States, the Russian Federation, Japan and other countries. Initially, the sources of infection were mainly residents of the People's Republic of China, who arrived on various grounds in other states, and also residents of various states who returned to their homeland from China or were in transit through it. But after that, the

process of spreading the infection to the lands of the appropriate countries had been quickly developing at the domestic level. According to information dated January 30, 2020 the Global Health Organization (WHO) announced an international social health emergency due to the massive coronavirus outbreak and called on the world's states to take measures to recognize the disease prematurely, including isolating the sick and tracking their contacts. Later, on March 11, the WHO declared that the coronavirus outbreak labelled a pandemic, affected the majority of states and all continents. In Kazakhstan, the initial cases of COVID-19 were reported on March 13, 2020 (https://www.inform.kz/ru/kazahstanskaya-strategiya-bor-by-s-koronavirusom-hronologiyamery-rezul-taty_a3651111 01.03.2021).

Increasing pollution and environmental degradation, global climate change, including global warming, increased social integration and trade relations in the inter-state aspect, as well as the growth of population migration, development of the tourism industry, as well as the “artificial” appearance of new pathogens led to the multiplication and emergence of new types of infectious disease-causing microbes. All these aspects change the prospects for preserving the health of the people and development, and affect the reproductive human health. Infectious diseases were used to be considered diseases of poor countries due to non-compliance with hygiene measures and the unavailability of poor-quality and necessary resources. The spread of coronavirus infection showed that the risks to the biological, sanitary and epidemiological security of the country, society and the person are not related to the economic development of society. According to the information dated March 09, 2021, 117,751,038 (one hundred and seventeen million seven hundred and fifty-one thousand thirty-eight) people were infected with the coronavirus infection, of which 2,612,196 (two million six hundred and twelve thousand one hundred and ninety-six) people died. According to the statistics of individual countries, in the United States of America the number of cases has reached 29,044,109 (Twenty-nine million forty-four thousand one hundred and nine) people, of which 525,752 (Five hundred twenty-five thousand seven hundred and fifty-two) people died, in Great Britain the number of cases – 4,235,989 (Four million two hundred thirty-five thousand nine hundred and eighty-nine) people, of which 124,801 (One hundred twenty-four thousand eight hundred and one) people died, in Italy – 3,081,368 (three million eighty-one thousand three hundred and sixty-eight) infected people, of which 100,103 (One hundred thousand one hundred and

three) people died, 268,902 (Two hundred and sixty-eight thousand nine hundred and two) people in the Republic of Kazakhstan, 3186 (Three thousand one hundred and eighty-six) people died (<https://coronavirus-monitor.info/> 09.03.2021). Statistics shows that the coronavirus pandemic demonstrates the possibility of threats to biological safety. All actions related to the COVID-19 pandemic and their results indicate the possibility of biological hazards from other unsafe pathogens and bio-agents. The emergence and spread of coronavirus infection was a blow to the sanitary and epidemiological safety of the country. To combat coronavirus infection and other infectious diseases, first of all, it is necessary to ensure the sanitary epidemiological safety of the state on a legal basis.

Currently, there is practically no single definition of the concept of ensuring sanitary safety; the above-mentioned studies do not meet the requirements in the context of a global pandemic. According to A.K. Kurmanova, the sanitary and epidemiological well-being of the population is considered as established and protected state measures aimed at ensuring the quality of the human environment, where its favorable and optimal existence is possible, and also indicates the priority measures to ensure the sanitary and epidemiological well-being of the country, such as economic incentives for development and implementation of energy-saving technologies in industry and agriculture, the widespread use of secondary resources; the formation of public, state reserve and other assistance funds; the establishment of a unified system for monitoring the health of the population based on combining existing non-interacting observations, the formation of a state environmental demographic policy for the protection of persons with disabilities. the development of scientific research in the field of sanitary and epidemiological well-being of the population, improving the educational system in order to develop environmental thinking and consciousness of the population of the Republic of Kazakhstan, etc. (Kurmanova, 2007a: 11-12).

According to A. I. Sapozhnikov, sanitary safety is a sanitary and epidemiological well-being, with no harmful impact of environmental factors on a person, where favorable conditions for his life are provided (Sapozhnikov 2005: 64).

Polish scientist Sebastian Czechowicz believes that during the pandemic, the activities of state bodies should be intensified and, most importantly, should be carried out cyclically. Due to the peculiarities of sanitary and epidemiological security, information campaigns and other forms of information

and education should certainly be disseminated and expanded, since threats to this category of security are constantly present. In particular, if we consider the current COVID-19 pandemic, this fact should be the reason for numerous changes in the field of educational health policy of the state and focus on preventive forms of response to possible hazards (Czechowicz 2020: 83).

According to scientists such as, E.G. Zinovyeva, S.V. Koptyakova, N. R. Balynskaya, P. Y. Stepashkov, in order to ensure the sanitary and epidemiological well-being of the population, it is necessary to prohibit the construction of all types of facilities that are sources of air pollution; expand the range of local products of commodity producers enriched with elements of iodine, other particularly important macro and microelements; promote a healthy lifestyle among the population and complete nutrition and compliance with important principles of labour conditions, develop programs to monitor compliance with sanitary and hygienic rules, hygienic standards and preventive measures of diseases; regularly conduct medical examinations of workers affected by harmful industrial factors, etc. (Zinovyeva E.G. & etc. 2019: 4)

Sanitary and epidemiological safety of the country is the state of protection of the state from penetration of infectious and other diseases, pathogenic microbes, as well as includes the protection and strengthening of the health of the population, preservation of the environment from harmful environmental factors and favorable conditions for human life.

We believe that the sanitary and epidemiological security of the country is the most important aspect of the national security of the country. Preservation and promotion of public health have always been the main priorities of the state. Besides, the sanitary and epidemiological safety of the country is directly related to the phytosanitary, veterinary and food safety of the state. The connection of phytosanitary, veterinary and food safety with sanitary and epidemiological safety can be seen in the context of preserving and maintaining the health of the population, the right of citizens to clean environmental products without harmful organisms, including pesticides, pathogens, harmons, chemical additives, dyes and other substances that have harmful effects on health. And it should also be noted that the sanitary and epidemiological safety of the country is directly related to the environmental safety of the state, since the preservation of public health is associated with a favorable environment and the impact of harmful factors.

In the context of the spread of the coronavirus pandemic, many legal problems have arisen in the field of protection of human rights and freedoms, in the field of public administration, etc. We would like to highlight some of them.

Firstly, serious problems have arisen in the field of ensuring the openness of justice. In the conditions of a video conference, every citizen who does not have information about the conference data does not have access to the court proceedings. However, according to the law, court proceedings must be open, except for certain cases.

Secondly, the problem of women's violence has become more acute in the context of the pandemic. According to the WHO, the number of calls from women complaining of violence by sexual partners increased by 60 percent compared to April last year. The number of calls to the hotline has increased fivefold (<https://news.un.org/ru/story/2020/05/1377602> 09.03.2021).

Thirdly, there were facts of misuse of public money allocated to fight coronavirus infection. From July 05 to 16, 2020, the Economic Investigation Service of the Ministry of Finance, the Ministry of Internal Affairs and the Border Service of the National Security Service revealed 396 offenses in the field of selling medicines and medical products, 76 of which fall under the articles of the Criminal Code (<https://yandex.kz/turbo/zakon.kz/s/5032506-v-mnf-ne-rassledy-yt-fakt-h-en-a.html> 10.03.2021).

International rules and norms of the Constitution of the Republic of Kazakhstan on Human Rights provide for situations of serious threats to health and restrictions on rights and freedoms are permissible in emergencies. We believe that in such conditions, the state should apply all the achievements of digitalization, science, etc.

We offer solutions to these problems by means of digitalization:

1. In the judicial system, in order to reduce the economic burden and to ensure openness during the trial and hearing process, accessible platforms should be provided where every citizen can watch the proceedings online. States should immediately provide the necessary technical and legal grounds, including translation and sign-interpretation services.

2. We all know that the current pandemic has exacerbated the problems of violence against women and girls. We need to provide a sufficient infrastructure of tools, such as helplines and electronic systems, to cope with the growing number of requests for help and to tighten legal responsibility on this matter.

3. Economic and social measures on financing issues in the field of support of citizens and businesses should be taken in accordance with the principle of good faith and accountability of the public and private sectors, especially during the COVID-19 pandemic.

Conclusion

Noting that every day the sanitary and epidemiological situation in the world as a whole is assessed as unfavorable, its negative impact on the health of the population is becoming more and more noticeable. The current political, legal, socio-economic and other changes in our country have led to deterioration in the basic health indicators of the population and unacceptable limits of socially significant diseases. In addition, the economy, the interests of business and ordinary citizens, not only in our country, but also around the world, were affected by the pandemic.

According to our opinion, the ensuring sanitary and epidemiological safety is a set of measures (political, economic, legal, social, cultural, scientific, medical, sanitary-hygienic and anti-epidemic) aimed at preserving and strengthening physical and mental health:

– Political measures: preparation and implementation of state programs to combat infectious and other diseases; the issues related to national security, measures to stop the import of infectious and other diseases should be considered in the program.

– Economic measures: preserving the ability of citizens to pay, support of businesses and maintaining wages, providing a deferral on loans and borrowings, including consumer loans or mortgages in the context of pandemic.

– Legal measures: legislative regulation of ensuring security and protecting human rights in the context of pandemic; strengthening the state's supervisory activities, as well as regulating the rights and obligations of citizens, all state bodies, tightening the legal responsibility for non-compliance with sanitary and epidemiological standards and requirements.

– Social measures: guarantee of social benefits and other types of support for each person without affecting the level of their social security, social support for those who are infected with this disease.

– Cultural measures: restriction of mass events, promotion of a healthy lifestyle and the fight against infectious diseases through the media and other means.

- Scientific measures: studying of not only the pathology of the disease, but also studying in the social sciences and humanities;
- Medical measures: preparedness of the health care system for any type of disease.
- Sanitary and hygienic and anti-epidemic measures: compliance with hygiene standards and regulations, operative epidemiological surveillance

and quarantine. All these measures are aimed at fighting against the pandemic.

In the context of pandemic around the world, and in individual states, political, economic, legal, social, cultural, scientific, medical, sanitary-hygienic and anti-epidemic measures should be taken to ensure the sanitary and epidemiological safety of the country.

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