

I.S. Nessipbayeva¹ , A.I. Rzabay^{2*} , O.Zh. Nessipbayev³ 

¹International Taraz Innovation Institute named after Sherhan Murtaza, Taraz, Kazakhstan

²Taraz Regional University named after M. H. Dulati, Taraz, Kazakhstan

³Southern Region military prosecutor's office, Taraz, Kazakhstan

*e-mail: toty_r@mail.ru

SOME ISSUES OF LEGAL PROTECTION OF OBJECTS OF HISTORICAL AND CULTURAL HERITAGE IN THE REPUBLIC OF KAZAKHSTAN

Kazakhstan is a country rich in historical heritage, cultural values, traditions and customs.

Since the formation of the Republic of Kazakhstan as a sovereign state, the issue of preserving the historical and cultural heritage of the country has become one of the main tasks of the state. A number of state programs aimed at ensuring the preservation of historical and cultural heritage have been adopted in the country. For example, the state program «cultural heritage» is a set of measures that form a whole system for the discovery of new historical and cultural monuments, restoration and reconstruction of important historical and cultural objects, and the study of the country's cultural heritage. Within the framework of the program, a large-scale inventory of domestic historical and cultural monuments was carried out, as a result of which state lists of 218 national monuments and 11,277 local monuments of culture were approved. The UNESCO World Heritage list includes the mausoleum of Khoja Ahmed Yasawi and petroglyphs of the Tamgaly archaeological landscape, as well as the Natural Heritage Site «Saryarka-steppes and lakes of Northern Kazakhstan».

The norms of law regulating land for historical and cultural purposes regulate the relations of Use and protection of land for historical and cultural purposes as a natural resource in the Republic of Kazakhstan, the rational rational use of land, the exercise of the rights and legitimate interests of subjects of land relations.

The purpose of the study is to identify the legal aspects of official recognition, rational use and protection of objects of historical and cultural heritage.

In the article, the authors try to reflect their distinctive features in the official recognition of objects of historical and cultural heritage. According to the authors, firstly, objects of historical and cultural heritage first of all, these are real estate objects, because these objects are inextricably linked with the land and it is impossible for them to function without the use of land. Secondly, there is a history of the formation and development of objects of historical and cultural heritage. Thirdly, objects of historical and cultural heritage are not only real estate objects, but also objects of value from the point of view of history, archaeology, architecture, urban planning, art, science and Ethnology, anthropology, culture.

The authors also consider the features of cultural heritage and cultural values, the specifics of attributing documents of the national archival fund of the Republic of Kazakhstan to objects of historical and cultural heritage.

According to the legislation of the Republic of Kazakhstan, objects of historical and cultural heritage are considered as real estate complexes. But the land plot is not included in its composition. In this regard, the authors believe that the content of these objects should include land plots located in the composition of real estate, which include objects of historical and cultural heritage.

Keywords: historical and cultural heritage, cultural monuments, objects of historical and cultural heritage, cultural value.

И.С. Несипбаева¹, А.И. Рзабай^{2*}, О.Ж. Несипбаев³

¹Шерхан Мұртаза атындағы Тараз инновациялық институты, Тараз, Қазақстан

²М.Х.Дулати атындағы Тараз өнірлік университеті, Тараз, Қазақстан

³Оңтүстік аймағы әскери прокуратурасы, Тараз, Қазақстан

*e-mail: toty_r@mail.ru

Қазақстан Республикасында тарихи-мәдени мұра объектілерін құқықтық қорғаудың кейбір мәселелері

Қазақстан – тарихи мұраларға, мәдени құндылықтарға, салт-дәстүрге бай мемлекет.

Қазақстан Республикасы егемен мемлекет ретінде қалыптасқан көзден бастап елдің тарихи-мәдени мұрасын сақтау мәселесі мемлекеттің басты міндеттерінің біріне айналды. Елімізде тарихи-мәдени мұраның сақталуын қамтамасыз етуге бағытталған бірқатар мемлекеттік

ламалар қабылданды. Мысалы, «Мәдени мұра» мемлекеттік бағдарламасы жаңа тарих және мәдениет ескерткіштерін ашу, маңызды тарихи-мәдени объектілерді реставрациялау және қайта жаңарту, елдің мәдени мұрасын зерделеудің тұтас жүйесін құрайтын іс-шаралар кешені болып табылады. Бағдарлама аясында отандық тарих және мәдениет ескерткіштеріне ауқымды түгендегу жүргізіліп, нәтижесінде республикалық 218 ескерткіштің және жергілікті 11 277 маңызы бар мәдениет ескерткіштерінің мемлекеттік тізімдері бекітілді. ЮНЕСКО Дүниежүзілік мұрасының тізіміне Қожа Ахмет Яссави кесенесі және Тамғалы археологиялық ландшафтының петроглифтері, сондай-ақ «Сарыарқа – Солтүстік Қазақстанның далалары мен көлдері» табиги мұра объектісі енгізілді.

Тарихи-мәдени мақсаттағы жерлерді реттейтін құқық нормалары Қазақстан Республикасындағы тарихи-мәдени мақсаттағы жерлерді табиги ресурс ретінде пайдалану мен қорғау, ол жерді ұтымды ұтымды пайдалану, жер қатынастары субъектілерінің құқықтары мен занды мұдделерін жүзеге асыру қатынастарын реттейді.

Зерттеудің мақсаты – тарихи-мәдени мұра объектілерін ресми танудың, ұтымды пайдалану мен оларды қорғаудың құқықтық, аспектілерін анықтау болып табылады.

Мақалада авторлар тарихи-мәдени мұра объектілерін ресми тануда олардың айрықша белгілерін көрсетуге тырысады. Авторлардың пікірінше, біріншіден, тарихи-мәдени мұра объектілері біріншіден, бұл жылжымайтын мүлік объектілері, себебі бұл объектілер жермен тығыз байланысты және олардың жерді пайдаланбай жұмыс істеуі мүмкін емес. Екіншіден, тарихи-мәдени мұра объектілерінің қалыптасуы мен дамуының тарихы бар. Үшіншіден, тарихи-мәдени мұра объектілер жылжымайтын мүлік объектілері ғана емес, сондай-ақ тарих, археология, сөүлет, қала құрылышы, өнер, ғылым және этнология, антропология, мәдениет тұрғысынан құндылығы бар объектілер.

Сондай-ақ, авторлар мәдени мұра мен мәдени құндылықтардың ерекшеліктерін, Қазақстан Республикасы Ұлттық мұрағат қорының құжаттарын тарихи-мәдени мұрасы объектілеріне жатқызу ерекшеліктерін қарастырады.

ҚР заннамасына сәйкес тарихи-мәдени мұра объектілері жылжымайтын мүлік кешені ретінде қарастырылған. Бірақ, оның құрамына жер учаскесі енгізілмеген. Осыған байланысты, авторлар аталған объектілердің мазмұнына тарихи-мәдени мұра объектілерін қамтитын жылжымайтын мүлік құрамына орналасқан жер учаскесілерін енгізілуі тиіс деп пайымдайды.

Түйін сөздер: тарихи-мәдени мұра, мәдениет ескерткіштері, тарихи-мәдени мұра объектілері, мәдени құндылық.

И.С. Несипбаева¹, А.И. Рзабай², О.Ж. Несипбаев³

¹Таразский инновационный институт имени Шерхана Муртазы, Тараз, Казахстан

²Таразский региональный университет им. М.Х. Дулати, Тараз, Казахстан

³Военная прокуратура Южного региона, Тараз, Казахстан

*e-mail: toty_r@mail.ru

Некоторые вопросы правовой охраны объектов историко-культурного наследия в Республике Казахстан

Казахстан – страна, богатая историческим наследием, культурными ценностями, традициями.

С момента становления Республики Казахстан как суверенного государства вопрос сохранения историко-культурного наследия страны стал одной из главных задач государства. В стране принят ряд государственных программ, направленных на обеспечение сохранности историко-культурного наследия. Например, государственная программа «Культурное наследие» представляет собой комплекс мероприятий, составляющих целостную систему изучения культурного наследия страны, реставрации и реконструкции значимых историко-культурных объектов, открытия новых памятников истории и культуры. В рамках программы проведена масштабная инвентаризация памятников отечественной истории и культуры, в результате которой утверждены государственные списки 218 памятников республиканского значения и 11 277 памятников культуры местного значения. В список всемирного наследия ЮНЕСКО включены мавзолей Ходжи Ахмеда Яссави и петроглифы археологического ландшафта Тамгалы, а также объект природного наследия «Сарыарқа-степи и озера Северного Казахстана».

Нормы права, регулирующие земли историко-культурного назначения, регулируют отношения использования и охраны земель историко-культурного назначения в Республике Казахстан в качестве природного ресурса, рационального рационального использования земель, осуществления прав и законных интересов субъектов земельных отношений.

Целью исследования является выявление правовых аспектов официального признания, рационального использования и охраны объектов историко-культурного наследия.

В статье авторы пытаются выделить их отличительные черты в официальном признании объектов историко-культурного наследия. По мнению авторов, во-первых, объекты историко-культурного наследия во-первых, это объекты недвижимости, поскольку эти объекты тесно связаны с Землей и не могут функционировать без землепользования. Во-вторых, есть история становления и развития объектов историко-культурного наследия. В-третьих, объекты историко-культурного наследия – это не только объекты недвижимости, но и объекты, имеющие ценность с точки зрения истории, археологии, архитектуры, градостроительства, искусства, науки и этнологии, антропологии, культуры.

Авторы также рассматривают особенности культурного наследия и культурных ценностей, особенности отнесения документов Национального архивного фонда Республики Казахстан к объектам историко-культурного наследия.

В соответствии с законодательством РК объекты историко-культурного наследия рассматриваются как комплекс недвижимости. Но, в его состав земельный участок не включен. В этой связи авторы полагают, что в содержание указанных объектов должны быть включены земельные участки, расположенные в составе недвижимого имущества, включающего объекты историко-культурного наследия.

Ключевые слова: историко-культурное наследие, памятники культуры, объекты историко-культурного наследия, культурная ценность.

Introduction

In the quarter century since Kazakhstan gained sovereignty, the rapid course of technological and social modernization processes and intensive development of land for industrial and economic purposes have become widespread. This, in turn, led to the destruction of historical and cultural monuments of various significance and the destruction of the cultural landscape in which they are located. Cultural heritage is divided into material and non-material. Historical cultural heritage includes monuments and exhibits, and non-historical heritage includes Epic Heritage, National Music, aitys, Kui, oratory, folklore, traditions, crafts, National Games, mythology and much more.

In order to ensure the preservation of historical and cultural heritage, a number of state programs have been implemented in the country. For example, during the implementation of the state program «cultural heritage» a set of measures was implemented, the result of which was the discovery of new historical and Cultural Monuments, Conservation, Restoration and reconstruction of important historical and cultural objects, the creation of a base for a holistic system for studying the country's cultural heritage (<https://adilet.zan.kz/>).

A large-scale inventory of monuments of domestic history and culture was carried out, state lists of historical and cultural monuments of national (218 monuments) and local (11,277) significance were approved. The UNESCO World Heritage list includes cultural monuments-the mausoleum of Khoja Ahmed Yasawi and petroglyphs of the Tamgaly archaeological landscape, as well as the Natural Heritage Site «Saryarka – steppes and lakes of

Northern Kazakhstan». Eight Kazakhstani objects on the Semipalatinsk section of the Silk Road: Talgar, Koi-lyk, Karamerген, Aktobe «Stepninskoye», Orken, Kulan, Kostobe, the archaeological complex «Akyrtas» were included in the UNESCO World Heritage List as part of the serial transnational nomination «Silk Road: Chang'an-Tien Shan Corridor route network» (<https://adilet.zan.kz/>).

As can be seen from the foregoing, our state pays special attention to the legal aspects of the identification, official recognition, rational use and protection of objects of historical and cultural heritage, which are closely related to the use of land. Article 37 of the Constitution of the Republic of Kazakhstan establishes the obligation of citizens of the country to take care of the preservation of historical and cultural heritage, to preserve historical and cultural monuments (<https://online.zakon.kz/>).

The Land Code of the Republic of Kazakhstan regulates the procedure, conditions and features of the provision, protection and use of historical and cultural lands, with the assignment of them to the composition of certain categories of lands belonging to specially protected areas and Recreational Lands. The legislator directly indicates that these lands include land plots on which objects of historical and cultural heritage are located, including monuments of history and culture (<https://adilet.zan.kz/>).

The specificity of historical and cultural lands is due to their legal regime, since the legal regime of the land plot and the object of cultural heritage located on it are united. Issues of legal protection and use of objects of historical and cultural heritage in Kazakhstan are provided by a special law «on the protection and use of objects of historical and cultural heritage» (<https://adilet.zan.kz/>). According to

this law, these are real estate objects associated with works of painting, sculpture, applied art, science and technology and other objects of material culture, which arose as a result of historical events that are of value from the point of view of history, architectural archeology, urban planning, art, science and technology, aesthetics, Ethnology or anthropology, social culture. The following features of objects of historical and cultural heritage can be distinguished.

First of all, these are real estate objects, that is, they are inextricably linked with the land and it is impossible for them to work without the use of land.

Secondly, they have a historical nature of their origin, that is, their origin has its own history of formation and development. The next moment is that these are not just real estate objects of historical origin, but objects of value from the point of view of history, archeology, architecture, urban planning, art, science and technology, aesthetics, Ethnology or anthropology, social culture (Auganbay 2025: 26).

Research methodology

In the process of writing a scientific study, general scientific and strict legal methods were used, including methods of analysis and synthesis, induction and deduction, abstraction, generalization.

Results and discussions

The concept of "cultural heritage object" («monument of history and culture») has already become the subject of research in scientific research. In defining the concept of object of cultural heritage, scientists in the field of jurisprudence conducted deep research (Сергеев 2000: 18), as well as scientists of philosophy, cultural studies and historians, for their part, expressed scientific interest (Дьячков 1987: 52).

«Cultural heritage differs from cultural values in that the former always has the property of being old; from the point of view of a temporary (diachronic) dimension, we can talk about general (cultural values) and personal (cultural heritage) relations. These concepts can be coordinated in such a way that some cultural value does not belong to the cultural heritage, but everything that belongs to the cultural heritage is a cultural value. The concept of cultural value «has a broader character than the concept of object of cultural heritage» (monument of history and culture), since it covers both the framework of objects that have the status of monuments and are subject to state registration and registration under the legislation of a number

of countries, as well as objects that do not yet have such status (Богуславский 2005: 31.). In modern legal literature, objects of cultural heritage are presented as a kind of cultural property (a set of immovable cultural property created by a person or previously purposefully influenced by him), which is under the protection of the state in the manner prescribed by law (Александрова 2015: 14.).

Responsibility for the identification and accounting of objects of historical and cultural heritage, carried out by conducting research works, is assigned to local executive bodies. Based on the results of the complex of research works, objects of historical and cultural heritage are included in the list of preliminary records and are subject to the same protection as monuments of history and culture until the status of a monument of history and culture is recognized. The recognition of objects of historical and cultural heritage as monuments of history and culture is approved by their approval in the state list of historical and cultural monuments of international, national and local significance, subject to mandatory official publication. Monuments of archeology from the moment of their detection acquire the status of monuments of history and culture.

Issues of legal protection and use of objects of historical and cultural heritage in Kazakhstan are provided for by a special law «on the protection and use of objects of historical and cultural heritage» (<https://adilet.zan.kz/>). According to the law in question, these are objects of painting, sculpture, applied art, science and technology and other material culture that represent value from the point of view of historical events resulting from history, archeology, architecture, urban planning, art, science and technology, aesthetics, Ethnology or anthropology, social culture objects of real estate. This definition allows us to determine the following characteristics of objects of historical and cultural heritage.

First of all, these are real estate objects, that is, they are inextricably linked with the land, and it is impossible to imagine their functioning without the use of land.

Secondly, their origin has a historical character, that is, the origin has its own history of formation and development. The next point is that these are not only historically occurring real estate objects, but also have value from the point of view of history, archeology, architecture, urban planning, art, science and technology, aesthetics, Ethnology or anthropology, social culture.

The concept of cultural heritage object («historical and cultural monument») has repeatedly become

the object of scientific research. The definition of this term was resorted to by the authors of works in the field of jurisprudence.

«Cultural heritage differs from cultural values in that the former always has the property of the ancient; we can talk about the relationship between common (cultural values) and personal (cultural heritage) in terms of a temporal (diachronic) dimension. These concepts can be interconnected in such a way that not every cultural value can relate to cultural heritage, but everything that belongs to cultural heritage is a cultural value. The concept of «cultural value» has a broader character than the concept of «object of cultural heritage»(monument of history and culture), since it covers both the circle of objects that have the status of monuments and are subject to state registration and registration under the legislation of a number of countries, as well as objects that do not yet have such status. In modern legal literature, objects of cultural heritage are presented as a kind of cultural property (a set of immovable cultural property created by a person or previously subjected to his targeted influence), which is protected by the state in the manner prescribed by law (Александрова 2015 : 14.).

According to our legislation, in order to recognize objects of historical and cultural heritage as monuments of history and culture, procedures for its recognition are required. The procedure for the identification, accounting, transfer and deprivation of status of historical and cultural monuments is regulated by the regulation «on approval of the rules for the identification, accounting, transfer and deprivation of status of historical and cultural monuments» (<https://adilet.zan.kz/>).

Responsibility for the identification and accounting of objects of historical and cultural heritage, carried out by conducting research works, is assigned to local executive bodies. Objects of historical and cultural heritage are included in the list of preliminary registration based on the results of a complex of research works and are subject to protection on an equal basis with monuments of history and culture until the status of a monument of history and culture is recognized. monuments. Recognition of objects of historical and cultural heritage as monuments of history and culture is ensured by their approval in the state list of historical and cultural monuments of international, national and local significance, subject to mandatory official publication. From the moment of its discovery, archaeological sites acquire the status of monuments of history and culture.

In order to ensure the protection of historical and Cultural Monuments, Protection Zones, Devel-

opment regulation zones and protected natural landscape zones are established on the lands of historical and cultural purposes. The boundaries of the protection zones of objects of historical and cultural heritage, development regulation zones and protected natural landscape zones are approved by local representative bodies of Regions, Cities of Republican significance, the capital on the recommendation of the relevant local executive bodies.

Objects of historical and cultural heritage-immovable objects of interest from the point of view of history, archeology, architecture, urban planning, art, science, technology, aesthetics, Ethnology, anthropology, social culture, formed as a result of historical processes and events associated with them, including works of fine, sculpture, applied art, science, technology and other objects of Material Culture.

It should be based on the requirements for the preservation of historical and cultural monuments and territories and objects recognized as protected landscape objects. The recognition of objects of historical and cultural heritage as monuments of history and culture is confirmed by their approval in the state list of historical and cultural monuments of international, national and local significance, subject to mandatory official publication. At the same time, it should be borne in mind that monuments of archeology, in accordance with the provisions of Article 5 of the law «on the protection and use of objects of historical and cultural heritage», acquire the status of monuments of history and culture from the moment of their detection (<https://adilet.zan.kz/>).

The identified objects of historical and cultural heritage are included in the list of special records and are subject to the same protection as historical and cultural monuments until a final decision is made on their status.

Deprivation of a monument of history and culture of its status and exclusion from the state list of monuments of history and culture is allowed only in case of complete physical loss and (or) loss of historical and cultural significance by the decision of the Government of the Republic of Kazakhstan. Approved by a special commission of the authorized body on the basis of the conclusion of a historical and cultural examination on the recommendation of the authorized body of the Republic of Kazakhstan, local executive bodies of Regions (Cities of Republican significance, the capital).

The norms of law regulating lands of historical and cultural purpose regulate relations arising in connection with the use and protection of Lands of historical and cultural purpose in the Republic of

Kazakhstan as a natural resource, from the purpose of organizing the rational use of land as a means and condition of production, as well as the improvement and rational use of fertile soil, the implementation of the rights and legitimate interests of subjects of land relations (Шуланбекова 2018 : 95).

The protection of historical and cultural heritage, the creation of legal guarantees for the preservation of the historical heritage of the Kazakh people and ethnic diasporas is one of the main principles of the state policy of the Republic of Kazakhstan in the field of culture.

According to Article 3 of the law «on culture», the preservation and development of the cultural heritage of the people of Kazakhstan is one of the basic principles of state policy (<https://adilet.zan.kz/>). The restriction of this right can only be established by a special regime of objects of national cultural heritage.

Monuments of history and culture (objects of cultural heritage) in the Republic of Kazakhstan are subject to mandatory protection and storage in accordance with the procedure provided for by the law «on protection and use of objects of historical and cultural heritage», have a special legal regime of use.

The special regime of objects of national cultural heritage is Measures for the preservation, maintenance, restoration, protection and use of objects of state cultural and cultural heritage in accordance with Article 34 of the law “on culture” (<https://adilet.zan.kz/>).

This mode is reflected as follows.

First, it is impossible to disassemble collections or collections of objects that have a special artistic or historical interest in a complex way.

It is not allowed to destroy, transfer, modify, transform or restore objects of national and cultural heritage included in the state register without a special permit issued by the authorized body for each specific object on the basis of a recommendation of an expert commission created by it.

Secondly, it is not allowed to use objects of national and cultural heritage in any way that does not correspond to their historical, artistic and religious purpose. Objects belonging to religious and cult organizations and objects of national and cultural heritage can be used taking into account their cult purpose.

Thirdly, the special regime of objects of national and cultural heritage does not apply to objects of copyright and related rights. In accordance with Article 6 of the law «on copyright and related rights»,

copyright applies to works of science, literature and art that are the result of creative labor, regardless of the purpose, content and significance, as well as the method and form of transmission. And in Article 36, related rights apply to performances, performances, Phonograms, broadcasts of terrestrial and cable broadcasting organizations, regardless of their purpose, content and quality, as well as the method and form of delivery (<https://adilet.zan.kz/>).

Fourth, the priority right to use architectural monuments belongs to cultural institutions.

Fifth, the tasks of proper maintenance and preservation of the state of objects of national and cultural heritage are assigned to their users or owners. Failure to comply with this obligation entails the seizure of the transferred right in court on a compensatory basis. In the absence of material or other opportunities for the maintenance of objects of national and cultural heritage by owners or users, the state bears the costs.

The implementation of the rights of the owner of the object of national cultural good is carried out under the control and in accordance with the procedure established by the law of the Republic of Kazakhstan, providing for the priority right of ownership of objects of national cultural good of the Republic of Kazakhstan in the event of their sale.

Sixth, objects of national and cultural property owned by the state are not subject to alienation.

Seventh, individuals and legal entities are liable for intentional destruction, destruction or damage to objects and objects of national and cultural heritage in accordance with the procedure established by the laws of the Republic of Kazakhstan (<https://adilet.zan.kz/>).

In accordance with paragraph 10 of the order of the Minister of Culture and sports of the Republic of Kazakhstan dated May 13, 2016 No. 129 «on approval of the rules for the formation and maintenance of the museum fund of the Republic of Kazakhstan», the maintenance of the museum fund is provided as follows. Let us consider the features of attributing documents of the national archival fund of the Republic of Kazakhstan to objects of historical and cultural heritage of the Republic of Kazakhstan.

The direct means of determining the historical and cultural heritage are the criteria that determine the special historical and cultural value of the document.

These criteria are close to groups of criteria for identifying particularly valuable cases and verifying the value of documents, since the attribution of

documents to the historical and cultural heritage is actually an examination of the value of documents at a higher level.

These are the criteria:

- time, place, historical conditions for the creation of documents;
- importance of founders and authorship of documents;
- authenticity of documents, legal force;
- the value of information in documents;
- availability of artistic and paleographic features of documents.

The criteria are usually used comprehensively.

The objects of the historical and cultural heritage of the Republic of Kazakhstan may include: firstly, documents of outstanding persons created by them (manuscripts, letters, etc.); secondly, documents signed by outstanding persons in accordance with their state, public and scientific positions; thirdly, resolutions, notes of outstanding persons, documents with other signs and information of historical value.

In practice, this criterion is used when determining documents of historical and cultural significance, first of all, taking into account the importance of the fund-the educator and his correspondents and the collections collected by him in private collections.

The criterion of authenticity and legal force of documents implies the attribution of original documents to the objects of historical and cultural heritage of the Republic of Kazakhstan. In the absence of originals of documents, taking into account their significance, you can attribute their preserved copies.

The criterion of artistic, paleographic features of documents applies mainly to documents of early historical periods and documents of personal origin. At the same time, it is necessary to take into account the presence of unique seals, artistic decorations, various letters, contracts, diplomas, as well as features in their manufacture and decoration.

The monument of history and Culture, located in private ownership, is not only an object of tourist attention. The presence of a cultural heritage object automatically entails a number of responsibilities (specified in the legislation of the Republic of Kazakhstan), as well as issues that are assigned to the owner responsible for solving.

Some of the main problems are, firstly, the search for funds necessary for the maintenance, restoration of facilities, for the solution of which it is necessary to attract other third-party sources of fi-

nancing from the state, and secondly, the need to organically integrate the facility into the economic life of the city. Currently, four ways to solve this problem are widespread in the world:

1. the privatization of the monument and the imposition of obligations on private owners are often applied to this approach in the absence of budgetary funds for the restoration of an object that has not been used for a long time and is in the process of self-destruction;

2. representation of the heritage object as a subject of entrepreneurial activity related to the reconstruction of real estate, its creation, modification of the object in accordance with the standards of the real estate market (comfort, functionality, etc.);

3. Use of the object as a base for the creation of tourist products and brands;

4. selling the "aura" of heritage, in particular, increasing the cost and prestige of housing in the "historical" area of the city (Синицин 2013 :47).

An object of cultural heritage is an important component for creating a «tourist brand» of a city or region, a mechanism that supports the self-expression of the territory. The cultural and historical heritage has been formed for a long time and reflects the mental characteristics of the population, and it also has a special Capital, which is understandable and attractive for both residents of the city and tourists.

Cultural and historical heritage is an invaluable and irreplaceable asset not only of every people of the world, but of all mankind. The loss of any part of it as a result of destruction or fracture is tantamount to mediating the heritage of all peoples of the world. Due to their advantages, some objects of this heritage can be recognized as having outstanding World value.

In order to ensure as much as possible the identification, protection, preservation and popularization of objects that make up the irreplaceable heritage of mankind, UNESCO member states adopted the World Heritage Convention for the protection of global cultural and historical heritage in 1972. Our country is a full member of this convention.

The Constitution of the Republic of Kazakhstan guarantees the right of every citizen to participate in cultural life and use cultural institutions, access to historical and cultural heritage. In addition, the Constitution obliges citizens to preserve this heritage and protect its monuments. In principle, the state and legal protection of historical and cultural heritage has an interesting and educational history (<https://online.zakon.kz/>).

Conclusion

In conclusion, the historical and cultural heritage of Kazakhstan is an integral part of the universal culture, an effective mechanism for the formation and development of human intelligence, ethnic society, and the most important repository of historical memory.

The legal essence of determining the object of protection of cultural heritage in order to establish the legal regime of Lands of historical and cultural significance is as follows: it is based on determining the subject of protection of the object of cultural

heritage, the type and limits of use. the object of cultural heritage is established, and since the land plot is historically and functionally related to the cultural object heritage and is its component, respectively, the type and limits of use of the land plot occupied by such an object are established. According to the legislation of the Republic of Kazakhstan, objects of historical and cultural heritage are considered as real estate complexes. But the land plot is not included in its composition. In this regard, the content of these objects should include land plots located in the composition of real estate, which include objects of historical and cultural heritage.

Литература

Указ Президента Республики Казахстан. О Государственной программе «Культурное наследие» на 2004-2006 годы от 13 января 2004 года N 1277(утратил силу) // https://adilet.zan.kz/rus/docs/U040001277_

Правительство Республики Казахстан. О проекте Указа Президента Республики Казахстан «О Концепции культурной политики Республики Казахстан» : Постановление от 22 сентября 2014 года № 998О\\«Әділет» Legal information system of Regulatory Legal Acts of the Republic of Kazakhstan. <https://adilet.zan.kz/rus/docs/P1400000998>.

The Constitution of the Republic of Kazakhstan (adopted on August 30, 1995 at the republican referendum). https://online.zakon.kz/Document/?doc_id=1017178&pos=3;-123#pos=3;-123.

Land Code of the Republic of Kazakhstan. Code of the Republic of Kazakhstan dated 20 June, 2003 № 442. «Әділет» Legal information system of Regulatory Legal Acts of the Republic of Kazakhstan. https://adilet.zan.kz/eng/docs/K030000442_.

On the protection and use of historical and cultural heritage sites. Law of the Republic of Kazakhstan dated December 26, 2019 № 288-VI 3РК. «Әділет» Legal information system of Regulatory Legal Acts of the Republic of Kazakhstan. <https://adilet.zan.kz/eng/docs/Z1900000288>.

А.Қ. Ауганбай. Қазақстан Республикасындағы тарихи-мәдени мақсатына арналған жерлердің құқықтық режимі (халықаралық жүзеге және үлттық тәжірибе). «6D030100 – Құқықтану» Философия докторы (PhD) дөрежесін алу үшін дайындалған диссертация. 2025 жыл. – 26 б.

Сергеев А.П. Гражданко-правовая охрана культурных ценностей в СССР. М., 2001. С. 18.

Дьячков А.Н. Памятники истории и культуры в системе предметного мира культуры // Памятник и современность : Вопросы освоения историко-культурного наследия / [ред.-сост. П. В. Боярский]. М., 1990. С. 17-60.

Александрова М.А. Гражданко-правовой режим культурных ценностей в Российской Федерации : дис... канд. юрид. наук. СПб., 2007. С. 48; Клебанов Л. Р. Памятники истории и культуры: правовой статус и охрана : монография. 2-е изд. М., 2015. С. 12-14.

«On approval of the Rules for identifying, recording, granting and depriving of status, moving and changing, monitoring the state and changing the category of monuments of history and culture». Order of the Minister of Culture and Sports of the Republic of Kazakhstan dated April 15, 2020 No. 92. Registered in the Ministry of Justice of the Republic of Kazakhstan on April 16, 2020 No. 20407. «Әділет» Legal information system of Regulatory Legal Acts of the Republic of Kazakhstan. <https://adilet.zan.kz/eng/docs/V2000020407>.

Шуланбекова Г., Ауганбай А., Оспанова Д.А. Тарихи-мәдени мақсатына арналған жерлердің құқықтық жағдайының жалпы сипаттамасы. Journal of Actual Problems of Jurisprudence. №1 (85). 2018. 95 бет.

«On Culture» The Law of the Republic of Kazakhstan dated 15 December 2006 № 207. «Әділет» Legal information system of Regulatory Legal Acts of the Republic of Kazakhstan. https://adilet.zan.kz/eng/docs/Z060000207_.

«On copyright and the related rights» The Law of the Republic of Kazakhstan dated 10 June, 1996 № 6-I. «Әділет» Legal information system of Regulatory Legal Acts of the Republic of Kazakhstan. https://adilet.zan.kz/eng/docs/Z960000006_.

«Синицин, В.О. Европейский опыт витализации объектов культурного наследия»// Мир искусств: Вестник Международного института антиквариата. – 2013. – №4. – С.40 – 47.

References

Указ Президента Республики Kazakhstan. О Государственной программе «Культурное наследие» на 2004-2006 годы от 13 января 2004 года N 1277(утратил силу) [Decree of the President of the Republic of Kazakhstan. On the State Program “Cultural Heritage” for 2004-2006 of January 13, 2004, No. 1277 (no longer in effect)] // https://adilet.zan.kz/rus/docs/U040001277_

Правительство Республики Kazakhstan. О проекте Указа Президента Республики Kazakhstan «О Концепции культурной политики Республики Kazakhstan» : Постановление от 22 сентября 2014 года № 998 О //«Әділет» Legal information system of Regulatory Legal Acts of the Republic of Kazakhstan. <https://adilet.zan.kz/rus/docs/P1400000998>.

The Constitution of the Republic of Kazakhstan (adopted on August 30, 1995 at the republican referendum). https://online.zakon.kz/Document/?doc_id=1017178&pos=3;-123#pos=3;-123.

Land Code of the Republic of Kazakhstan. Code of the Republic of Kazakhstan dated 20 June, 2003 № 442. «Әділет» Legal information system of Regulatory Legal Acts of the Republic of Kazakhstan. https://adilet.zan.kz/eng/docs/K030000442_.

On the protection and use of historical and cultural heritage sites. Law of the Republic of Kazakhstan dated December 26, 2019 № 288-VI 3PK. «Әділет» Legal information system of Regulatory Legal Acts of the Republic of Kazakhstan. <https://adilet.zan.kz/eng/docs/Z1900000288>.

A.K. Auganbay. Kazakhstan Respublikasyndagy tarihi-madeni maksatyna arnalga zherlerdin kukykytyk rezhimi (halykaralyk zhuze zhane ultiyk tazhiribe). «6D030100 – Kukyktanu» Filosofia doktry (PhD) darezhesin alu ushin daiyndalgan dissertatsia. 2025 zhyl. – 26 b.

Sergeev A.P. Grazhdansko-pravovaia ohrana kulturnyh tsennostei v SSSR. M., 2001. P. 18.

Diachkov A.N. Pamiatniki istorii i kultury v sisteme predmetnogo mira kultury // Pamiatnik i sovremennost : Voprosy osvoenia istoriko-kulturnogo nasledia / [red.-sost. P.V. Boiarski]. M., 1990. P. 17-60.

Aleksandrova M.A. Grazhdansko-pravovoi rezhim kulturnyh tsennostei v Rossiiskoi Federatsii : dis... kand. urid. nauk. SPb., 2007. C. 48; Klebanov L.R. Pamiatniki istorii i kultury : pravovoi status i ohrana : monografia. 2-e izd. M., 2015. P. 12-14.

«On approval of the Rules for identifying, recording, granting and depriving of status, moving and changing, monitoring the state and changing the category of monuments of history and culture». Order of the Minister of Culture and Sports of the Republic of Kazakhstan dated April 15, 2020 No. 92. Registered in the Ministry of Justice of the Republic of Kazakhstan on April 16, 2020 No. 20407. «Әділет» Legal information system of Regulatory Legal Acts of the Republic of Kazakhstan. <https://adilet.zan.kz/eng/docs/V2000020407>.

Shulanbekova G., Auganbay A., Ospanova D.A. Tarihi-madeni maksatyna arnalga zherlerdin kukykytyk zhagdaiynyn zhalpy sipattamasy. Journal of Actual Problems of Jurisprudence. №1 (85). 2018. 95 p.

«On Culture» The Law of the Republic of Kazakhstan dated 15 December 2006 № 207. «Әділет» Legal information system of Regulatory Legal Acts of the Republic of Kazakhstan. https://adilet.zan.kz/eng/docs/Z060000207_.

«On copyright and the related rights» The Law of the Republic of Kazakhstan dated 10 June, 1996 № 6-I. «Әділет» Legal information system of Regulatory Legal Acts of the Republic of Kazakhstan. https://adilet.zan.kz/eng/docs/Z960000006_.

Sinitsin, V.O. Evropeiski opyt vitalizatsii obiektov kulturnogo nasledia// Mir iskusstv: Vestnik Mezhdunarodnogo instituta antikvariata. – 2013. – №4. – P.40 – 47.

Information about the authors:

Nesipbaeva Indira Seisenovna – candidate of legal sciences, associate professor of the Taraz Innovation Institute named after Sherkhana Murtazy (Kazakhstan, Taraz, e-mail: nesipbaeva83@bk.ru).

Rzabai Aktoty Imangazykyynva (corresponding author) – PhD, associate professor of Taraz University named after M.Kh. Dulati (Kazakhstan, Taraz, e-mail: toty_r@mail.ru).

Nesipbayev Olzhas – Military Prosecutor's Office of the Southern Region, Kazakhstan (Kazakhstan, Taraz, e-mail: onesipbayev@bk.ru).

Авторлар туралы мәлімет:

Индира Сейсенқызы Несіпбаева, заң ғылымдарының кандидаты, Шерхан Мұртаза атындағы Тараз инновациялық институтының доценті (Казақстан, Тараз, e-mail: nesipbaeva83@bk.ru).

Рзабай Ақтоты Имангазықызы (автор корреспондент) – философия докторы, М.Х. Дулати атындағы Тараз университетінің доценті (Казақстан, Тараз, e-mail: toty_r@mail.ru).

Несіпбаев Олжас Жагаппарови – Оңтүстік аймақтық әскери прокуратурының ага прокуроры (Казақстан, Тараз, e-mail: onesipbayev@bk.ru).

Сведения об авторах:

Несипбаева Индира Сейсеновна – кандидат юридических наук, ассоциированный профессор Таразского инновационного института имени Шерхана Муртазы (Тараз, Казахстан, e-mail: nesipbaeva83@bk.ru).

Рзабай Ақтоты Имангазықызы (корреспондент-автор) – PhD, ассоциированный профессор Таразского университета имени М.Х. Дулати (Тараз, Казахстан, e-mail: toty_r@mail.ru).

Несипбаев Олжас – Военная прокуратура Южного региона (Тараз, Казахстан, e-mail: onesipbayev@bk.ru).

Received: May 10, 2025

Accepted: September 10, 2025