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The specifics of the maslikhat in solving problems of integrated social development of territories of strategy «Kazakhstan – 2050»

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«Қазақстан – 2050» стратегиясы аясында аумақты кешенді әлеуметтік дамыту проблемаларын шешудегі мәслихаттардың қызметінің өзгешелігі

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Специфика деятельности маслихатов в решении проблем комплексного социального развития территорий в рамках стратегии «Казakhstan – 2050»

The aim of the article is the definition, the role and the meaning of Maslihat as local representative agencies. In solving the questions and problems of complex and social development of the territories. The views and the result of investigation are analyzed of the history of building and development of the local government system in Kazakhstan, analyzing of its modern conditions and place and meaning of Malishat as central section of central government in complex development of the territory. The author investigated the constitutional legislation of Maslihat and made concrete offers of its improvement, in the article, the working experience of Maslihat and its deputies in decisions in such social problems as raising of pensions, building of roads and problems of under ages was shown. The ideals of the author can be used in law making process, in practicing activity of Malishat's, in development of all parts of local government system and in the process of education on juridical faculties.

Key words: Local self government, local representative agencies, complex social development of territory, social state, deputies of maslihats, problems of local meanings.

Жұмыстың мақсаты болып биліктің жергілікті өкілді органы ретінде мәслихаттардың Республика Президенті белгілеген міндеттер аясында аумақты кешенді әлеуметтік дамыту мәселелерін және проблемаларын шешудегі рөлі мен маңызын анықтау табылады. Жұмыстың қорытындысы мен нәтижесі – Қазақстанда жергілікті өзін-өзі басқару жүйесінің қалыптасу және даму тарихын, оның қазіргі жағдайын, жергілікті өзін-өзі басқарудың орталық буыны ретінде мәслихаттардың орны мен маңызын талдау болып табылады. Автор мәслихаттар туралы конституциялық-құқықтық заңнамаға талдау жасаған және оны жетілдіру жөнінде нақты ұсыныстар берген. Мақалада жалпы мәслихаттар мен оның депутаттарының зейнетақы көтеру, жол құрылысы жұмыстарын жүргізу және кәметке толмағандармен жұмыс жүргізу секілді әлеуметтік мәселелерді шешу жөніндегі жұмыстарының оң, сәтті тәжірибесі көрсетілген. Автордың жасаған қорытындыларын мәслихаттардың, оның депутаттарының практикалық қызметін жақсарту үшін, жергілікті өзін-өзі басқару жүйесінің басқа да элементтерін дамыту үшін және заң факультетінде конституциялық-құқықтық циклдегі пәндерді оқытуда қолдануға болады.

Түйін сөздер: Жергілікті өзін-өзі басқару, жергілікті өкілді органдар, аумақты кешенді әлеуметтік мемлекет, мәслихат депутаттары, жергілікті маңызы бар мәселелер.

Целью работы является определение роли и значения маслихатов как местных представительных органов власти в решении вопросов и проблем целостного, комплексного социального развития территорий в свете современных требований и задач, поставленных Президентом РК. Методологию работы составили диалектический метод, конкретно-исторический, сравнительный, социологический методы исследования и метод моделирования и прогнозирования. Выводами и результатами работы явился анализ истории становления и развития системы местного самоуправления в Казахстане, его современного состояния, места и значения маслихатов как центрального звена самоуправления в комплексном развитии территорий. Автором проведен анализ конституционно-правового законодательства о маслихатах и выработаны конкретные предложения по его совершенствованию. В статье отмечен положительный опыт работы маслихатов в целом и их депутатов по решению таких социальных проблем, как увеличение пенсий, строительство дорог и работа с несовершеннолетними. Выводы автора могут быть использованы для улучшения практической деятельности маслихатов, их депутатов, для развития других элементов системы местного самоуправления, а также в процессе преподавания на юридических факультетах дисциплин конституционно-правового цикла.

Ключевые слова: местное самоуправление, местные представительные органы, комплексное социальное развитие территорий, социальное государство, депутаты маслихатов, проблемы местного значения.

**THE SPECIFICS OF
THE MASLIKHAT IN
SOLVING PROBLEMS
OF INTEGRATED
SOCIAL DEVELOPMENT
OF TERRITORIES OF
STRATEGY
«KAZAKHSTAN – 2050»**

In the Republic of Kazakhstan for years of sovereign development there were considerable democratic transformations which serve problems of creation of the legal, social state. But during the modern period the country is on the way for many more pressing issues. Among them – expansion of wide system of local self-government in Kazakhstan, successful functioning of all components of this system.

When Kazakhstan was a part of USSR, on the 15th of February, 1991 was adopted the Law of the Kazakh SSR «On local self-government and local councils of people's deputies of the Kazakh SSR», which gave the concept of local self-government in the Kazakh Soviet Socialist Republic as a citizen self-organization to address directly or through their elected bodies of all issues relating to the territory and its population, based on the laws and their own material and financial base [1].

In the Constitution of RK of 1993 it wasn't told about local self-government at all. In Article 90 of the paragraph 2 it was enshrined: «The solution of questions of local value is carried out by local representative and executive bodies» [2].

The constitution of the Republic of Kazakhstan of 1995 in difference from the Constitution of 1993 contains the article 89, which devoted to local self-government. For the first time norms on local self-government are presented in the Constitution. Their independence within their powers is guaranteed. Thereby prerequisites for formation and development of system of local management and self-government, public administration with decentralization elements on places and political control are put from local population in the person of the representative bodies. The constitution fixes that RK admits the local self-government providing the independent decision with the population of questions of local value (p. 2 of art. 89) [5]. For specification of this concept the Explanatory dictionary of the Constitution of RK explains that «local self-government – the democratic institute of the independent decision of the population of questions of local value recognized by the Constitution of 1995 (Art. 89)» [3].

In the original version of the 1995 Constitution was fixed concept, according to which the local self-government has been separated from the local government. Local public administration

was represented by maslikhats (local representative bodies), akims and akimats (local executive bodies).

The local government could be carried out by the population directly by elections, and also through electoral and other local governments. Such ratio between local public administration and self-government has existed till 2007.

During this period from 1995 to 2007 several attempts have been made to develop the project on local government of RK in which different definitions of local government were offered. All projects «About Local Government in RK» anyway reflected provisions of the Constitution of RK, the concept put in this, and also provisions of the European Charter of local government.

Constitutional reform of 2007 changed the balance of local and state administration and self-government in the Republic of Kazakhstan. Now there is no evidence to suggest that they are two different systems that do not intersect.

The status of maslikhat has changed. They are recognized as a local self-government, which was the natural result of the search of the optimal model of local self-government, which lasted for twelve years after the adoption of the national referendum of August 30, 1995 the new Constitution of the country, and which has long insisted that some domestic political scientists[4].

For carrying out in compliance with new edition of the Constitution of the current legislation in the Law RK of January 23, 2001 «About local public administration to RK» essential amendments have been made on February 9, 2009. The name of the Law has changed in the new edition «About Local Public Administration and Self-government in RK».

This Law gives the following definition of local self-government as the activity which is carried out by the population directly, and also through maslikhat and other local governments, directed to the independent solution of questions of local value under the responsibility, in the order determined by the present law, other standard legal bodies [5].

This definition reflects absolutely correct, in our opinion, opinion on close interrelation of local public administration and local government during the modern period.

Maslikhats carried out extensive work on the integrated development of the territories, the solution of social and other problems in the framework laid down in the law of competence and authority. But along the way, of course, there are many problems,

including poor financial discipline, the direct theft of the allocated funds, corruption component, and others. From the standpoint of improvement of legal regulation of complex development of territories and the whole legal framework of local self-government in the Republic of Kazakhstan it seems necessary to offer following:

1. Within the framework of decentralization of management which is carried out to RK in the Law RK «About Local Public Administration and Self-government» of 23.01.01 it is accurate to differentiate powers between various levels of public administration.

2. To complete redistribution of functions between local representative and executive bodies, to enshrine the full list of their functions in the law.

3. To secure in the Law of RK «About Elections to RK» the mechanism of elections of akims of countrysides.

4. Supplement the Law «On local government and self-government» from 23.01.01. with provisions for compulsory reporting of maslikhat deputies to the voters at least 2 times per year, which will help to stimulate the deputies in their work on the implementation of territorial development programs.

5. In our opinion, it is necessary to supplement the law «On local government and self-government» with next article «The principles of local self-government», which must be attached the following principles:

- 1) independent decision population of local issues;
- 2) ensuring wide participation of citizens in local government;
- 3) economic and financial independence;
- 4) diversity of models of local self-government;
- 5) organizational separation of local government in the management of society and the state system;
- 6) warranty of local government;

The development of local self-government in the Republic of Kazakhstan in the light of the Strategy «Kazakhstan – 2050»: a new policy of established state» and the Concept of development of local government receives new impetus. In the modern period of development of the country's constitutional and legal status of maslikhats will be improved taking into account the decentralization of management problems, gain values, roles, strengthening the powers of local authorities to address local issues, for the integrated development of the territory.

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