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## ISSUES OF IMPROVING THE LEGAL FRAMEWORK OF THE PENSION SYSTEM IN THE REPUBLIC OF KAZAKHSTAN

Kazakhstan is a democratic, legal, social state, whose political course is aimed at ensuring conditions for a decent life and free development of citizens. At the same time, the pension provision of citizens involves the provision of a certain amount of state guarantees to ensure a decent life for all categories of citizens.

The article examines the dynamics and state of the pension system in the Republic of Kazakhstan as one of the first states to initiate the reform of the joint pension system among the post-Soviet states. The structure of the formation of pension provision for the population was determined, the results of the analysis of the investment activities of the Unified Accumulative Pension Fund were presented.

The authors consider the concept of «pension provision» and the legal, social and economic aspects of pension provision. Also, observing the principle of accumulation, but expanding the possibilities of pension funds and individual voluntary opportunities of citizens in terms of pension provision, it supports further measures to diversify the investment portfolio of pension funds and expand the list of financial instruments suitable for investment at the expense of pension assets to ensure sufficient profitability of pension savings. To restore confidence in the pension system, the Government proposes to develop a long-term strategy for the development of the pension system and comes to the conclusion that it is necessary to adopt a new program for fundamental reforms in the pension system.

**Keywords:** pension system, distributive and accumulative models, pension provision, Unified Accumulative Pension Fund, Social Code.

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### Қазақстандағы зейнетақы жүйесінің құқықтық негіздерін жетілдіру мәселелері

Қазақстан – демократиялық, құқықтық, әлеуметтік мемлекет, оның саяси бағыты азаматтардың лайықты өмір сүруі мен еркін дамуы үшін жағдайларды қамтамасыз етуге бағытталған. Бұл тұрғыда азаматтарды зейнетақымен қамтамасыз ету азаматтардың барлық санаттарының лайықты өмір сүруін қамтамасыз ету үшін белгілі бір көлемдегі мемлекеттік кепілдіктерді қамтамасыз етуді көздейді.

Мақалада посткеңестік мемлекеттер арасында зейнетақымен қамсыздандырудың ынтымақты жүйесін реформалауды алғаш жолға қойған мемлекеттердің бірі ретінде Қазақстан Республикасындағы зейнетақы жүйесінің динамикасы мен жай-күйі қарастырылған. Халықты зейнетақымен қамсыздандыруды қалыптастыру құрылымы анықталып, Бірыңғай жинақтаушы зейнетақы қорының инвестициялық қызметін талдау нәтижелері ұсынылды.

Авторлар «зейнетақымен қамсыздандыру» ұғымына және зейнетақымен қамсыздандырудың құқықтық, әлеуметтік және экономикалық аспектілерін қарастырады. Сондай-ақ, жинақтау қағидатын сақтай отырып, бірақ зейнетақы қорларының мүмкіндіктерін және азаматтардың зейнетақымен қамсыздандыру бөлігінде жеке ерікті мүмкіндіктерін кеңейте отырып, зейнетақы жинақтарының жеткілікті кірістілігін қамтамасыз ету үшін зейнетақы қорларының инвестициялық портфельін әртараптандыру және зейнетақы активтері есебінен инвестициялау үшін жарамды қаржы құралдарының тізбесін кеңейту жөніндегі іс-шараларды одан әрі жүргізуді қолдайды,

зейнетақы жүйесіне деген сенімді қалпына келтіру үшін Үкімет зейнетақы жүйесін дамытудың ұзақ мерзімді стратегиясын әзірлеуді ұсынады және зейнетақы жүйесінде түбегейлі реформалар бойынша жаңа бағдарлама қабылдануы қажет деген қорытындыға келеді.

**Түйін сөздер:** зейнетақы жүйесі, үлестіруші және жинақтаушы модель, зейнетақымен қамсыздандыру, Бірыңғай жинақтаушы зейнетақы қоры, Әлеуметтік кодекс.

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### Проблемы совершенствования правовых основ пенсионной системы в Республике Казахстан

Казахстан – демократическое, правовое, социальное государство, политический курс которого направлен на обеспечение условий для достойной жизни и свободного развития граждан. При этом пенсионное обеспечение граждан предполагает обеспечение определенного объема государственных гарантий для обеспечения достойной жизни всех категорий граждан.

В статье рассматриваются динамика и состояние пенсионной системы в Республике Казахстан как одного из первых государств, инициировавших реформирование солидарной системы пенсионного обеспечения среди постсоветских государств. Определена структура формирования пенсионного обеспечения населения, представлены результаты анализа инвестиционной деятельности Единого накопительного пенсионного фонда.

Авторы рассматривают понятие «пенсионное обеспечение» и правовые, социальные и экономические аспекты пенсионного обеспечения. Также, соблюдая принцип накопления, но расширяя возможности пенсионных фондов и индивидуально-добровольные возможности граждан в части пенсионного обеспечения, поддерживает дальнейшее проведение мероприятий по диверсификации инвестиционного портфеля пенсионных фондов и расширению перечня финансовых инструментов, пригодных для инвестирования за счет пенсионных активов, для обеспечения достаточной доходности пенсионных накоплений. Для восстановления доверия к пенсионной системе Правительство предлагает разработать долгосрочную стратегию развития пенсионной системы и приходит к выводу о необходимости принятия новой программы по кардинальным реформам в пенсионной системе.

**Ключевые слова:** пенсионная система, распределительная и накопительная модели, пенсионное обеспечение, Единый накопительный пенсионный фонд, Социальный кодекс.

### Introduction

The pension system of any country is the most important element of the state's social policy. In the Republic of Kazakhstan it has undergone significant transformation, starting from the Soviet model of solidarity between generations and moving to the modern accumulation system. The main objective of legal regulation of pension relations is a fair and sustainable mechanism of pension provision for the population, taking into account economic realities and demographic challenges.

One of the most important strategies of any state is the creation of an efficient pension system that corresponds to the modern economic development of the country and complies with international standards. The efficiency of the pension system is measured by the replacement rate of labour income to pension payments and the rate of return on pension assets.

There are two models of the pension system in the world practice: pay-as-you-go and funded (Madrid 2005: 37).

The distribution model is based on the dependence of the pension size on the level of wages, length of service, and the amount of insurance contributions. Pension payments are financed by insurance premiums collected from employers and citizens, which essentially means that «the pensions of one generation are financed by the insurance companies of the next generation» (Madrid 2005: 41).

The funded pension system model is the complete opposite of the distribution model: insurance contributions are deposited into a pension account in a specialized financial company, whose task is to invest these funds in various financial markets to increase their value.

The advantages inherent in the savings model can be noted, namely:

- differentiation of pension sizes depending on the size of savings, as well as investment efficiency;
- the possibility of effective use of accumulated funds for the development of the state economy (Nurgazina & Amanbekov 2016: 149).

Today, there are current discussions regarding the semantics of the concepts of «pension provision» and «pension system». However, given the relevance of this problem, it should be noted that there is a lack of theoretical research in this area. According to K.M. Tulepbaev, pension provision is «legal and socio-economic institutions designed to accumulate part of citizens' income to provide material and in-kind (social services) in connection with old age or in the event of disability or loss of a breadwinner» (Tulepbaev K.M. 2016). The object of pension provision is the entire population of the state, and the subjects are the structures that ensure the organization and management of pension provision.

The semantics of the definitions «pension provision» and «pension system» are not identical. That is, the pension system, as a rule, is understood as the system operating in the country, that is, the pension system of the country is a mechanism for ensuring a stable standard of living for the population of retirement age through state regulatory instruments.

Pension provision can be considered in legal, social and economic aspects.

In the legal aspect, pension provision is a branch of legislation that regulates relations in society aimed at supporting people with disabilities. Most legal norms on pension provision operate within the framework of labor legislation, which reflects the connection between pension provision and labor.

In the social aspect, pension provision is a set of forms of social security for citizens who have lost their ability to work due to age or health (disability).

In economic terms, pension provision is a part of national income used to support people with disabilities.

The essence of the pension system is the use of a set of interrelated measures and mechanisms (organizational, administrative, social, legal, economic and others) aimed at forming all the needs for support of future pensioners, as well as at regulating issues of payments to elderly people.

Kazakhstan is one of the first countries in the post-Soviet space to reform the unified pension system. Since 1998, new entities of the pension market have appeared on the financial arena, such as the State Pension Payment Center (SPPC) and later the Unified Accumulative Pension Fund (UAPF). The

activity of the Unified Accumulative Pension Fund is to ensure the management of pension provision and the social insurance system.

As of January 1, 1998, the Law of the Republic of Kazakhstan dated July 13, 1999 «On state special benefits for persons who worked in underground and open-pit mining operations, in jobs with particularly harmful and particularly difficult working conditions or in jobs with harmful and difficult working conditions» according to list №1- from January 1, 2000, a state special benefit was introduced (<https://adilet.zan.kz/>).

Kazakhstan is a democratic, legal and social state, the political direction of which is aimed at ensuring conditions for a decent life and free development of its citizens. In this context, pension provision for citizens involves the provision of a certain volume of state guarantees to ensure a decent life for all categories of citizens. The head of state has defined the goals and objectives set out in the Strategy «Kazakhstan-2050» and other program and strategic documents; issues of pension provision are becoming especially relevant in the context of the ideas and tasks of modernization being implemented (<https://adilet.zan.kz/kaz>).

The process of reforming the pension system began back in 1998 and has now gone through several stages. At the same time, taking into account the construction and development of a competitive economy, internal reforms in this area will develop while maintaining a balance between their economic and social aspects. One of the key stages of reforming the pension system was the creation of a single accumulative pension fund and the transfer to it of pension assets and obligations under pension provision agreements of individual accumulative pension funds. As of February 1, 2025, the number of pensioners will be 2 million 445 thousand people. In 2025, a number of regulatory legal acts came into force. The most important of them is the increase in mandatory pension contributions of employers from 1.5% to 2.5%. (<https://dknews.kz/ru/>).

In accordance with the Law «On the Republican Budget for 2024-2026», from January 1, 2024, the amount of the solidarity pension will increase by 9%. The amount of the state basic pension payment has been increased due to an increase in the subsistence minimum, as well as an increase in the minimum amount from 60% to 65% and the maximum amount of the subsistence minimum from 100% to 105%. Thus, from January 1, 2024, the minimum amount of the total pension increases from 77,417

tenge (in 2023) to 86,068 tenge (<https://adilet.zan.kz/>).

As of February 1, 2025, the average total pension amounted to 143,248 tenge, including the solidarity pension of 95,789 tenge and the basic pension of 47,459 tenge (<https://kazpravda.kz/>).

In Sweden, the pension system is flexible and tailored to the individual circumstances of citizens. It consists of basic, funded and professional pension elements. The retirement age is flexible: a citizen can retire earlier or later at his own discretion, which will affect the amount of the pension.

In Germany, the state also legislates employers' responsibility for ensuring the stability of the pension system. In addition, the pension amount is constantly indexed in accordance with actual consumer prices and the inflation rate.

For Kazakhstan, these practices can serve as an example in such areas as the introduction of a flexible retirement age, indexation of pension amounts taking into account inflation, and increased responsibility of employers.

A comparative analysis with the pension systems of OECD countries shows that in Kazakhstan the future size of the pension remains highly dependent on the level of wages and employment stability, while in developed countries the emphasis is on universality and redistribution mechanisms.

Currently, Kazakhstan has a multi-level pension system consisting of basic, mandatory and voluntary levels.

Basic level – state basic pension paid to all citizens upon reaching retirement age, regardless of their length of service.

At the second, mandatory level, pensioners are paid a solidarity (labor) pension from the budget and a pension formed from accumulative pension funds. The retirement age for men is 63 years (with 25 years of service), for women – 58 years (with 20 years of service). By 2027, it is planned to reduce the difference in retirement age and equalize men and women, setting a common retirement age of 63 years.

The main indicator measuring the adequacy of old-age pensions is the replacement rate of labor income with pension payments. In matters of the adequacy of the replacement rate, the Government of Kazakhstan is guided by the documents of the International Labor Organization (ILO), in particular ILO Convention No. 102 «On Minimum Standards of Social Security». This Convention establishes that the replacement rate must be no less than 40%

of the level of material support for citizens during the working period (<https://www.consultant.ru/>).

The mandatory funded pension system is aimed at officially employed citizens, from whom, in addition to taxes, 10% of their salary is withheld as a contribution to the mandatory funded pension system (MFPS).

According to international practice, the mandatory funded pension system is designed to ensure that wages are replaced by an appropriate pension in old age. In developed countries, mandatory funded pension systems have a replacement rate of 60–70% when a worker retires if he or she makes mandatory monthly contributions to the funded pension system throughout his or her working life (approximately 40 years). Mandatory pension contributions are transferred by employers for employees, and if a citizen is self-employed or an individual entrepreneur, then transfers are made independently in the amount of 10% to the Unified Accumulative Pension Fund. In the presence of harmful working conditions (the list of which is approved by the Decree of the Government of the Republic of Kazakhstan), the employer pays mandatory professional pension contributions in the amount of 5%. These are professional pension contributions that the employer transfers from its own funds in favor of the employee. Since 2020, a new mandatory conditional accumulation component has been introduced – contributions to the pension accounts of employees in the amount of 5% of the employee's income.

The third type of pension contributions are voluntary savings contributions, which are paid by citizens themselves and can become a good supplement to the basic pension in the future. On April 20, 2023, the «Social Code of the Republic of Kazakhstan» was adopted. Among the reforms, the code provides for the creation of a Unified Accumulative Pension Fund (UAPF), which is justified not only from an economic but also from a social point of view. In accordance with Article 218 of the Social Code, taking into account the inflation rate in the amount of actually made compulsory pension contributions, compulsory occupational pension contributions made by the state for the period from the moment of entering into a pension annuity contract with an insurance organisation in the Unified Accumulative Pension Fund of compulsory pension contributions, compulsory occupational pension contributions until reaching the age specified in paragraph 1 of Article 207 of this Code, guarantees the safety of the pension.

## Research materials and methods

When writing the article, general methods of scientific knowledge were used, in particular, methods of collecting and researching data, comparison, statistical analysis and synthesis, the method of scientific abstraction. When studying the theoretical foundations, as well as the functioning of pension provision, the comparative method and statistical analysis were used.

## Discussions and results

The state guarantees insurance of pension savings. At the same time, a feature of the pension legislation of the Republic of Kazakhstan is the inclusion in the law of a clause on mandatory professional pension contributions. Contributions are transferred by payers from their own funds in favor of workers whose professions are indicated in the list of industries, jobs and professions of workers determined by the Government of the Republic of Kazakhstan.

According to the Social Code of the Republic of Kazakhstan, from 2024 it is planned to gradually introduce 5% of mandatory pension contributions from the employer in the form of a conditional funded portion. To date, neither the Social Code nor other regulatory acts of Kazakhstan provide for how the 5% of mandatory pension contributions of the employer will be used in the future. If this money is used as indicated in the ENPF report, then this new «conditional funded component» of the pension system is essentially a distribution budget pension system. In this case, 5% of the employer's mandatory pension contributions is an additional tax that the state can dispose of at its own discretion.

In 2014, the Presidential Decree approved the current «Concept for Further Modernization of the Pension System of the Republic of Kazakhstan until 2030», which stated that as of January 1, 2014, the total replacement rate was 44.6% of the average monthly salary in the economy as a whole. In 2019, the replacement rate reached its peak (<https://online.zakon.kz/>).

That same year, according to the Minister of Labor and Social Protection, pensions paid from the state budget were increased by a total of 15%, bringing the overall income replacement rate of pension payments to a record 52.7%.

Today, the main problem of the funded pension system of Kazakhstan is the low replacement rate, which is 12.4% (Kurmanov, 2011). The size of the

replacement coefficient of the Unified Accumulative Pension Fund depends on a number of factors. These include the amount of monthly pension contributions from the employee's total income, the mandatory nature and regularity of pension contributions, the scale of coverage of the working population, the average pension payment period (the difference between average life expectancy and retirement age), and the profitability of pension assets.

Another pressing problem with the pension system in Kazakhstan is the lack of trust in it on the part of the majority of the population. The reasons for such distrust of the funded pension system are: low financial literacy of the population; weak regulation of private pension funds at the first stage; creation of a negative background and the directive unification of private pension funds into one state fund (UAPF); non-market investments of the UAPF in government and quasi-government securities immediately after the creation of the UAPF. Unfortunately, it takes a long time to lose public trust.

The current funded pension system in the UAPF is capable of paying out sufficient pensions in the future, and this pension fund can remain stable by fulfilling the following three conditions:

1. Prohibition of early withdrawal of pension savings for housing, treatment and other purposes.

2. Contributions to an employee's personal savings account in a non-state pension fund should amount to 15% of his salary, and not 10% of his salary as is currently the case. According to the Social Code, the contribution to the general NPF is 15%. (10% is paid by the employee, 5% by the employer). However, 5% of the employer's mandatory pension contributions (MPC) are made in the format of the «conditional funded portion».

This new «conditional accumulation part» (5% of salary) will not increase the employee's pension in the future, but will be paid by the state.

3. The UAPF should receive high investment returns from pension assets. The problem of low investment returns is related to the underdevelopment of the stock market in Kazakhstan.

Despite the stable functioning of the pension system, there are a number of legal and organizational problems that require the attention of the legislator and government agencies.

1. Insufficient flexibility of pension legislation

Current legislation does not always take into account the individual characteristics of citizens, such as unstable income, self-employment, migration. For example, freelancers and self-employed citizens are not fully covered by the system, despite the leg-

islative establishment of obligations to pay contributions.

## 2. Insufficient development of voluntary savings

The legal framework regulating voluntary pension contributions exists, but the system is underdeveloped. The reasons are the low level of public trust in financial institutions, the lack of motivational mechanisms (tax incentives, etc.) and poor public awareness.

## 3. Demographic challenges and risks to system sustainability

The aging population, declining birth rates and increasing life expectancy create a burden on the pension system. In the context of the funded model, this requires increasing the financial literacy of citizens and the reliability of investment management of pension assets. However, legal regulation does not fully take into account these long-term factors.

In recent years, the retirement age for women in Kazakhstan has gradually increased to the level of men (up to 63 years). This change has sparked various debates in society. Criticisms are often heard that women's social status, work burden, and family responsibilities are not taken into account. Legal provisions concerning retirement age should be as flexible as possible. If individual work experience, health status and social factors are not taken into account, these changes may undermine social justice.

Investment management of pension fund assets is an important issue. Currently, pension savings are managed by the National Bank, but its investment efficiency remains low. This will directly affect the future size of citizens' pensions. In addition, the law does not fully resolve the issues of loss of pension savings and their protection from inflation. Specific guarantees for the safety of these funds must be provided at the legislative level.

From 2021, citizens will be able to use part of their pension savings to purchase housing, treatment and investment purposes. Although this change was welcomed, the legal framework and mechanisms for accessing pension savings are still imperfect. Some citizens were unable to take advantage of this opportunity due to insufficient savings. This creates inequality.

Many citizens do not fully understand pension legislation. This complicates the retirement process and leaves people without legal protection. It is necessary to provide legal information in simple language, as well as improve educational and consulting services for the population.

The pension system of the Republic of Kazakhstan is one of the most sensitive and socially significant institutions. The efficiency of its functioning directly depends on the quality of legal regulation. In the context of demographic changes, digitalization and transformation of the labor market, there is a need for a comprehensive approach to modernizing legislation. The solution to the problems specified in the article will ensure not only the sustainability of the pension system, but also the trust of citizens in state institutions.

The pension system of the Republic of Kazakhstan is one of the most sensitive and socially significant institutions. The efficiency of its functioning directly depends on the quality of legal regulation. In the context of demographic changes, digitalization and transformation of the labor market, there is a need for a comprehensive approach to modernizing legislation. The solution to the problems specified in the article will ensure not only the sustainability of the pension system, but also the trust of citizens in state institutions.

Taking into account the above problems, it is advisable to consider the following measures:

Expanding coverage of the pension system – through the creation of simplified mechanisms for registration and payment of contributions for the self-employed and informal sector workers.

Creating incentives for voluntary savings – introducing tax breaks, co-financing from the budget, information campaigns.

Increasing the transparency of the UAPF activities – ensuring citizens' access to information about the placement of their funds, introducing elements of management through public councils.

Development of flexible forms of pension provision – such as partial pension, flexible retirement age, especially for women and citizens working in difficult conditions.

Adaptation of legislation to digital technologies – to simplify accounting, control and receipt of services through electronic platforms.

## Conclusion

In conclusion, it should be noted that although the pension system in Kazakhstan is an important structure that ensures social stability, there are still many unresolved issues in the area of its legal regulation. Inflexible retirement age standards, low investment returns on pension savings, low public confidence in the pension system and lack of access to legal information are the main factors that negatively affect the effectiveness of the system.

To solve these problems, we offer the following recommendations for improving pension legislation and implementing specific legal mechanisms to ensure the safety of pension savings:

Firstly, according to international practice, to achieve a pension replacement rate of at least 60%, it is necessary to transfer mandatory contributions in the amount of at least 15% of the total income of workers and for at least 40 years. Increasing the size of pensions while simultaneously reducing the burden on the state budget is possible only by increasing the amount of pension contributions to the Unified National Pension Fund.

Secondly, in our opinion, in the near future Kazakhstan needs to completely reboot the pension system, preserving the principle of the funded nature, but expanding the capabilities of pension funds and individual voluntary opportunities for citizens in terms of pension provision.

Thirdly, the development of the funded pension system should be closely linked to the development of the stock market and the expansion of the range of various pension programs.

Fourthly, in the investment portfolio, it is necessary to continue taking measures to diversify the pension funds' investment portfolio and to expand the list of financial instruments suitable for investment at the expense of pension assets for different groups of depositors, allowing to coordinate different financial instruments with different degrees of profitability and risk, i.e. to ensure sufficient profitability of pension savings.

Fifthly, to restore confidence in the pension system, the Government needs to develop a long-term strategy for the development of the pension system, from which the majority of the population will understand when and how to receive a decent pension in old age.

Sixthly, in 2014 the current «Concept for further modernization of the pension system of the Republic of Kazakhstan until 2030» was approved. This document is long outdated and does not correspond to world practice. In our opinion, it is necessary to urgently develop and approve a new document in this area.

Kazakhstan has a very large share of the shadow economy and a low-income population. This will have an extremely negative impact on both the distribution and accumulation pension systems. Workers who earn money in the shadow economy or whose official income is too low cannot make significant contributions to the state budget and the Social Insurance Fund. At the same time, upon reaching retirement age, they receive a relatively good pension from the state budget, resulting in a relatively good pension replacement rate.

As a result, the current pension system in Kazakhstan (state budget plus UAPF) is extremely discriminatory towards people who conscientiously pay taxes and social payments to the budget, and also make contributions to the UAPF. They have the lowest replacement rate.

The following can be said about the development of the pension system of Kazakhstan as a whole. Today, the accumulative pension system (APS) is irrelevant, since due to the early withdrawal of funds, a person cannot adequately replace his or her labor income with a pension upon retirement. It is necessary to adopt a new program of radical reforms of the pension system.

#### Author contributions

*B.K. Amirova – conceptualization of the study, definition of the research aims and objectives, development of the methodological framework, drafting the initial version of the manuscript. E.S. Meerbekov – collection and processing of empirical data, legal/scientific analysis of the applied approaches and results, scientific editing of the text. V.B. Tapakova – statistical and comparative analysis, interpretation of the research findings, preparation of tables and illustrative materials. A.I. Rza-bai – collection and systematization of literature sources, preparation of the literature review section, clarification of the scope of the study. B.U. Turegeldiev – validation of the obtained results, formulation of conclusions and recommendations, approval of the final version of the manuscript and overall scientific editing.*

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