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Improvement of administrative-legal regulation of land relations in the Republic of Kazakhstan

Dastan A. Kairbayev

Kazakh National Agrarian Research University
050010, 8 Abai Ave., Almaty, Republic of Kazakhstan

Tlevkhan K. Akhmedzhanov

Kazakh National Agrarian Research University
050010, 8 Abai Ave., Almaty, Republic of Kazakhstan

Amanzhol E. Kaiyrbay

Eurasian Law Academy named after D.A. Kunaev
050000, 107 Kurmangazy Str., Almaty, Republic of Kazakhstan

Gaukhar M. Rakhimzhanova*

Kazakh National Agrarian Research University
050010, 8 Abai Ave., Almaty, Republic of Kazakhstan

Abstract

Relevance. Administrative-legal regulation in the field of land relations in the Republic of Kazakhstan today is to ensure the functioning of the system of public administration regarding the ownership, use, and further disposal of land resources and is aimed primarily at creating an effective regulatory framework.

Purpose. The purpose of the study is to examine and analyse the administrative-legal regulation of land relations in the Republic of Kazakhstan.

Methodology. The methodological basis of the study is the following methods and techniques of scientific knowledge: system-structural, dialectical, and comparative methods, system, generalisation, synthesis and abstraction, historical-legal, formal-legal, normative-dogmatic, and comparative-legal research methods.

Results. The conducted study allowed forming an understanding of the administrative-legal regulation of land relations in the Republic of Kazakhstan and analysing its features. The study describes the mechanisms and ways to improve administrative-legal regulation.

Conclusions. Economic and political processes in the Republic of Kazakhstan in recent years have demonstrated the need to introduce changes not only in the system of land relations regulation but also in the importance of implementing and improving land reform. These changes were reflected in the work on the adoption of a number of legislative initiatives and regulations in the Republic of Kazakhstan. Modification of the approach to administrative-legal regulation of land relations in the Republic of Kazakhstan in recent years has initiated the introduction of land reform and adaptation of this regulation to its requirements. Thus, if the recommendations made based on the study are implemented, it will be possible to accelerate the implementation of land reform and improve the overall administrative-legal regulation in the field of land resources.

Keywords: land management; landowners; moratorium; land degradation; resource conservation.

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*Corresponding author



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Introduction

Land relations and the specific features of their administrative-legal regulation are one of the most important values that each state tries to improve and develop. The involvement of citizens in important areas of public life is a necessary condition for the realisation of their rights and freedoms, and the creation of the necessary conditions in this area for the protection of private and public property is particularly important. A.A. Yessekeyeva [1] draws attention to this need from the standpoint of stability in the state, progressive improvement of the land issue, and the importance of its economic, social, and political importance.

Therewith, insufficient attention is paid by the author to the practical mechanisms of interaction between the state and citizens in the land sector. Thus, focusing on the list of necessary conditions for the protection of citizens' rights, there are no clear mechanisms that can provide such an opportunity.

One of the most important methods of implementing national policy in the field of land use is the creation of an effective regulatory framework that can ensure legal order in the field of land relations and creates conditions for further development of mechanisms for their regulation by both administrative-legal means. An important mechanism of such regulation is administrative law, which allows for land relations to remain permanently under state-legal influence, and the focus is on improving the means of regulating these relations.

E. Strikeleva et al. [2] write about this in her paper. Since institutional development and decision-making in the field of land management are important components of building an effective management system and sustainable use of land resources, then today such changes are being implemented more often. Paying a lot of attention to administrative law, the authors miss the importance of other branches of law and lawmaking, but such an analysis will allow for fully identifying the features of institutional development and the land management system.

As R. Abdullaev et al. [3] emphasise in their study, land relations are public. It is highlighted that it is public relations based on the right of ownership of land that arise in the system of public administration through the daily practical implementation of tasks and functions of the state represented by authorised bodies. They aimed at establishing public relations in various fields of life. The authors pay considerable attention to legal relations in the field of land ownership and use rights, which form the material and legal basis of land relations, and reflect their features.

This is a set of legalised rights in relation to individual land plots, and the local state administration, which acts as a guarantor of legality, has the primary right to conduct operations with land resources under its control. The researchers' paper does not sufficiently disclose the role of local executive bodies, since they have a monopoly right to act against violators who do not comply with the requirements for the use of land resources in the region.

There is a stratification and intersection of administrative-legal regulation and land-legal regulation. It is also important to note that today the satisfaction of public needs in the field of land use makes the

administrative-legal regulation of land relations a separate field of administrative-legal regulation.

After the global reformatting of the international legal order, the forms of ownership and production in agriculture have also changed substantially – the collective structure of land ownership has turned into a set of various forms of individual land use, which is analysed in their paper by E. Strikeleva et al. [2]. However, since land resources have become a prerequisite and basis for all types of processes occurring in society, insufficient attention is paid to the fact that the state of land resources directly affects the level of well-being of citizens.

Today, one of the biggest problems of land quality in the Republic of Kazakhstan is land degradation. The total area of degraded land was 66% of the national territory, that is, more than 48 million hectares [4], approximately 76.1% of Kazakhstan's land is considered to be desertification-sensitive areas with medium to high sensitivity [5]. Every year, economic losses from land degradation account for 3% of Kazakhstan's gross domestic product (GDP) [6].

Given the growing impact of the state of land on the well-being of citizens, the need to preserve land resources is an important condition for the stable development of not only the economy but also society in general. G. Ageleuov [7] emphasises that the Republic of Kazakhstan, which has a huge resource potential, should consciously approach its application, develop a strategy for rational use and protection of land.

The organisation and management of land use is an important socio-political activity of the state. The entry of the Republic of Kazakhstan into the world economy, the implementation of necessary changes, increasing its competitiveness, and the implementation of land reform are closely related to the efficiency of land use, state control over this use, and the development of a favourable environment for increasing the economic potential and well-being of the population.

This is exactly what the author's paper pays little attention to. Notably, in land relations, the violation of the obligations of one of the parties determines its responsibility to the state, and not to the other party to the dispute [8].

The purpose of the study is to examine and analyse the administrative-legal regulation of land relations in the Republic of Kazakhstan. Considering the relevance of the study for the Republic of Kazakhstan, to achieve this goal, it is necessary to define the following tasks:

- consider the main features of the state of modern administrative-legal regulation of land relations in the Republic of Kazakhstan;
- analyse a number of possible proposals of legal experts to improve the administrative-legal regulation of land relations in the Republic of Kazakhstan with their subsequent implementation in the system of legislation of this state.

Materials and Methods

Using the system-structural method, the main aspects of the study were identified and priority areas for changes in legal regulation in the Republic of Kazakhstan in the field of land relations were described. The dialectical method

has become a methodological basis for searching for information and outlining the general characteristics of administrative-legal regulation of land relations in the Republic of Kazakhstan. The use of the dialectical method also allowed describing various approaches of the authors to the multi-vector legal nature of land relations, and the diversification of approaches to their administrative-legal regulation.

Due to the fact that the analysis method was applied, it was possible to examine the best practices of researchers in the field of land relations and identify inconsistencies in the provisions of regulatory legal acts regulating land relations in the Republic of Kazakhstan. Land relations as an object of administrative-legal regulation were considered by the synthesis method.

The method of system analysis was used to examine the general theoretical and methodological foundations of legal regulation of land relations and form a leading ideological approach to the introduction of changes in the administrative-legal regulation of these relations. Using the methods of generalisation and abstraction and methods of synthesis and analysis, it was possible to examine not only the main content but also the features of administrative-legal regulation of land relations.

The systematic approach allowed determining the features, problematic aspects, and state of protection of land relations by the norms of the legislation of the Republic of Kazakhstan. Using the logical-semantic method, the terminology of the subject was described, systematised, and generalised, in particular, the definitions of the concepts of “land relations”, “administrative-legal regulation”, “moratorium on land sales”, “land conservation”, “land resources”, “land control”, “land management”, “ecosystem conservation” were given.

The application of historical and legal research methods allowed analysing the stages and processes of formation and further development of legal regulation of land relations in the territory of the Republic of Kazakhstan. The formal legal method was used to analyse the functioning of subjects of administrative-legal protection of land resources and the specific features of transformational changes in land legal relations.

When considering the provisions of the legislation of the Republic of Kazakhstan and the regulatory framework regulating land relations of other states, the normative dogmatic research method was used. Through historical and legal methods, the specific features of the formation and development of the relevant administrative-legal regulation in the Republic of Kazakhstan were determined, and evolutionary changes in doctrines in the field of research were considered. The comparative legal method was used in the study and comparison of the provisions of the legislation of different states in the field of administrative-legal regulation of land relations.

The application of the theoretical and predictive method allowed developing proposals for improving the current land legislation of the Republic of Kazakhstan. In addition, proposals were formed to improve and further reform administrative-legal regulation in the field of land relations. The methodological base that was used allowed comprehensively examining the subject of the study and formulating proposals for further prospects for improving

the administrative-legal regulation of land relations in the Republic of Kazakhstan.

Results and Discussion

A brief overview and analysis of the regulatory framework

After the declaration of independence on December 16, 1991, the Republic of Kazakhstan introduced an increasing amount of new legislative initiatives in the field of land regulation, which led to the adoption of the Land Code of the Republic of Kazakhstan [9] (LC of the RK). Since then, a completely new stage in the formation of administrative-legal regulation of land relations in the state has begun [10].

The Land Code defined the following priority principles of the state in the field of land policy: inviolability of the territory of the Republic of Kazakhstan; ensuring the preservation of land as a nature reserve and the basis for the life of citizens; and preservation and rational use of land resources. It also includes guarantees of environmental stability; targeted use of land; advantage of agricultural land; access to information on the state of land. Moreover, it includes state assistance in land use and implementation of environmental initiatives, mechanisms for preventing land damage, and conditions for paid use of land plots. It was also forbidden to sublet land shares, which at that time affected 28% of all shares in the country.

Such a ban was intended to encourage the owners of shares to either cultivate these plots of land independently or contribute them to the shares of agricultural enterprises, buy them out, or return the shares to the state if none of the previous options are chosen. The LC of the RK [9] was the result of work on improving land use conditions and the basis for regulatory regulation of land relations in the Republic of Kazakhstan.

As a result of the implemented reforms in 2003-2005, almost 40.5% of all agricultural land was converted into private farms and almost 39% was contributed to the fixed capital of agro-industrial enterprises [11]. However, the result of such changes was a disproportionate increase in the income of large farmers' associations compared to owners of private farms, which in general only increased the contradictions between these two categories of land owners. First of all, this caused a substantial outflow of capital from small landowners and small farms, which in turn increased indignation on the part of the owners of these lands.

Due to the fact that the crisis of administrative-legal regulation in the field of land relations was constantly deepening, the need to implement effective reforms was brewing. That is why, in 2011-2015, a number of regulatory legal acts were adopted regulating the field of land relations.

For example, the Law of the Republic of Kazakhstan No. 464-IV “On Amendments and Supplements to Certain Legislative Acts of the Republic of Kazakhstan on the Regulation of Land Relations” [12] was adopted. This law regulated activities related to various aspects of land management. These include management of the construction procedure in settlements for engineering, transport and social infrastructure, defence and security, and strategic objects. It also covers the development of natural territories that require special protection and

mineral deposits, as well as price zoning of territories. Additionally, it addressed the procedure for registration of land plots in private ownership and the development of the procedure for mandatory withdrawal of land plots. Four years later, amendments were made to the LC of the RK [9], which consolidated accessibility for the purchase of agricultural land that is not used [13].

A special feature of the changes was that these lands could be purchased not only by citizens of Kazakhstan or joint ventures but also provided the opportunity to lease such land to foreigners for up to 25 years through land auctions. Funds from such purchase and sale or lease agreements were supposed to go to the state fund for national welfare. The adoption of these normative legal acts was designed to stabilise the situation and establish an effective dialogue between the state and landowners. However, the growing concern of landowners only worsened the crisis of these relations.

Since the issues of land reform and changes in legislation in the land sector were debatable, their implementation provoked mass protests in several cities of the Republic of Kazakhstan in 2016. The protests took place in response to changes made to the Land Code, which allowed 1.7 million hectares of agricultural land to be put up for auction and extended the period of land use in the form of lease by foreigners from 10 to 25 years.

Discontent among the population was primarily caused by concerns that the amendments would jeopardise the national sovereignty and territorial integrity of the Republic of Kazakhstan, providing too wide opportunities for foreign actors. Despite the fact that in general the changes were aimed at increasing investment in the agricultural sector of the state and promoting its economic growth, through public pressure and the growing discontent of citizens, in May 2016, Decree of the President of the Republic of Kazakhstan No. 248 “On Introducing a Moratorium on the Application of Certain Rules of Land Legislation” [14]. In August 2016, the moratorium was extended until 2021 [15].

With the view that in modern geopolitical realities, internal state standards of technical regulation should be consistent with international standards for monitoring land, land cadastre, geodesy and land management, in May 2021, the Parliament of the Republic of Kazakhstan submitted for consideration a draft law “On the Prohibition of the purchase and lease of agricultural land by foreign citizens”. This bill was first proposed by President of Kazakhstan Kassym-Jomart Tokayev at a meeting of the National Council of the Republic of Kazakhstan, during which he started a discussion and raised the issue of land reform.

The result of discussions in the National Council and its relevant committees of the Republic of Kazakhstan was the adoption of a resolution prohibiting the transfer of agricultural land to private ownership or lease to various foreign subjects of land law. Another step towards bringing the norms of internal land legislation to international standards was the adoption in December 2020 of amendments to the Tax Code, which provided for an increase in the tax rate on agricultural land that is not used by 10 times from January 1, 2022.

Today, the Republic of Kazakhstan also has a ban on the issuance of agricultural land in the border zone to

foreigners and other subjects with a foreign component, and the needs of citizens to care for personal livestock near settlements are classified as state-owned, which entails the possibility of their forced withdrawal. The adoption of these regulations has substantially improved the situation with landowners’ distrust of the state. Discontent and public pressure were reduced, which allowed starting a more effective dialogue between the state regulatory bodies of land relations and the population and landowners [16; 17].

In general, the administrative-legal regulation of land relations in the Republic of Kazakhstan is conducted due to the activities of the state and its bodies in the field of land relations. The central authorised body is the Ministry of Agriculture of the Republic of Kazakhstan under which the Land Management Committee of the Ministry of Agriculture of the Republic of Kazakhstan has been operating since 2016 [18; 19]. This Committee performs strategic, regulatory, control, and supervisory functions in the field of land management, and implements political and legal decisions in this area.

To date, the Ministry of Agriculture of the Republic of Kazakhstan has developed a number of regulations in the field of land management. These are, in particular, the regulation on the procedure for granting agricultural land at tenders involving the public and creating a standard lease agreement. The Pasture Management Plan developed in 2017 [20], and adopted amendments regarding the use of remote sensing data [21] contributed to the regulation of land relations.

Such a structure of administrative-legal management of land resources allows conducting effective work in relevant committees, developing the necessary recommendations, creating draft laws, and initiating changes to already adopted regulatory legal acts in this area. Constant work, consideration of proposals, and search for opportunities for their implementation are the basis for effective land relations management.

Thus, in the structure of administrative-legal regulation of land relations, depending on the subject of regulation, three main types of relations can be distinguished: public administration in the field of land use; provision of public services in the field of land use; relations arising from violations of land legislation. The effectiveness of these three types of relations is the key to ensuring overall efficiency in the field of administrative-legal management of land relations in the Republic of Kazakhstan.

Structure and composition of land resources of the Republic of Kazakhstan. Land reform

Modern technologies and analysis of initial data allow analysing the general state and potential for the development of land relations. As of today, 8.3 million hectares of land have been realised in the Republic of Kazakhstan. Of the total number of land plots, most (3.5 million hectares) remain under the responsibility of local executive authorities – akimats (Figure 1). This state of affairs clearly demonstrates that changes to the legislation in the field of land management are being actively implemented in the Republic of Kazakhstan today.

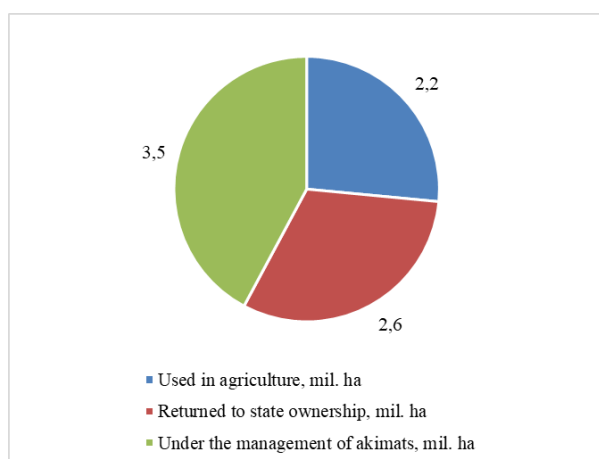


Figure 1. Shares of realised land resources in the Republic of Kazakhstan

A. Tokbergenova et al. [22] analyse the structure of agricultural land in detail in their study. Researchers highlight that during the reform of agricultural enterprises in 1991-2005 in Kazakhstan, the area of agricultural land in the country decreased by 136.2 million hectares. But later the area of this category of land increased annually and its total increase from 2005 to 2015 amounted to 18.6 million hectares.

Notably, non-agricultural land in the Republic of Kazakhstan today is 18%. The share of agricultural land in the Republic is 38.6%, ranging by region from 73.7% (in the northern part of Kazakhstan), 72.2% (in Akmol), to 10.1% (in Kyzylord) and 21.3% (in Atyrau).

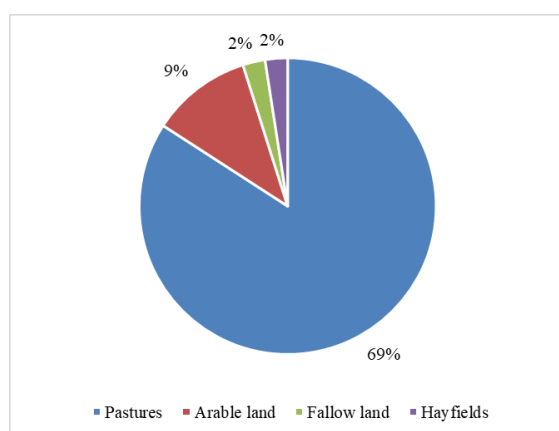


Figure 2. Structure of agricultural land in the Republic of Kazakhstan

Source: A. Tokbergenova et al. [22].

Simultaneously with the introduction of land reform, in the context of the transition to a market economy, there was a need to actually consolidate various forms of land ownership and registration, accounting, and land valuation standards. Currently, cadastral centres in the Republic of Kazakhstan are formed at the national and regional levels, they are united in a single technological complex, which forms a publicly available information resource in the land sector, the introduction of advanced satellite survey technologies using remote sensing and internet technologies [23].

The next step towards the development of administrative-legal regulation of land relations was the

development in 2021 by the Ministry of Agriculture of the Republic of Kazakhstan of a draft law on the creation of a single digital state cadastre of real estate [24]. Since 2015, the functions of state control over the identification of land that is not used in the Republic of Kazakhstan have been conducted by local executive authorities (akimats). In 2021, the Ministry of Agriculture developed a draft law on land relations. In addition, authorised bodies in the field of environmental protection exercise state control over the use and protection of land.

One of the main goals of legislative and political initiatives of the Republic of Kazakhstan to implement the provisions of the LC of the RK [9] is to guarantee the effective conservation of land resources by creating highly productive adapted land plots. This goal is achieved through the development, first of all, of economic regulation of land relations, and state control over the implementation of land legislation [25].

Considering public opinion, for more effective regulation of land relations in 2021, the Ministry of Agriculture of the Republic of Kazakhstan has developed a draft law "On amendments to certain legislative acts of the Republic of Kazakhstan on the development of land relations". Among other things, the submitted draft law contained the following norms:

1. Lease for 49 years of agricultural land for individuals and legal entities who are citizens of the Republic of Kazakhstan, with the right to extend this lease term.
2. At the end of the lease term, the right to lease agricultural land is transferred between land users (for a period of at least 5 years with a notification of such a state of land resources) bypassing the purchase from the state.
3. Prohibition of changing the purpose of agricultural land for gardening and suburban development.
4. Explanation of the specific features of determining the boundaries of pastures.
5. The moratorium on the provision of agricultural land in private ownership was extended until December 31, 2026.

A separate place in this draft law was given to the situation with the return of control to the state over the use and protection of land, namely to the Committee on Land Management, while simultaneously taking away such a right from akimats. This decision was due to the fact that since 2013, the number of inspections conducted by akimats on land use and protection has decreased by 2.6 times, and the effectiveness of eliminating identified violations has decreased by 4.5 times.

Thus, the modern administrative-legal regulation of land relations in the Republic of Kazakhstan is a determining factor that ensures the effective functioning of socio-political and economic activities in the state and supports and determines the order of production and rational use of its natural resource potential. Administrative-legal regulation of land relations in the Republic of Kazakhstan is improved by ensuring proper, legal, and justified influence of the state on these public relations to maximise the effective implementation of the interests of the state while respecting the rights and legitimate interests of its citizens.

In the modern world, given all the changes that have taken place in recent years, the rules of land ownership and

management remain crucial factors that can ensure the well-being of citizens of each state, and help to effectively use and preserve environmental resources. This problem is common to all countries of the world, every continent and ocean.

Rules of use and regulation of land relations are a key element that grants or does not grant the right to individuals, communities, organisations, or other entities to obtain, use and control natural resources, such as land, under certain conditions for a certain period of time. Each society independently determines and regulates how individuals, communities, and organisations access land and other public goods through their ownership and use systems [26; 27].

Usually, land ownership systems can be based either on written rules and laws or on unwritten customs and practices. Moreover, society directly influences the process of accepting or not accepting such rules. The issue of land ownership has become particularly important because the well-being of many property owners, especially in rural areas with limited resources, depends on access to and control over land and other natural resources. These resources serve not only as a source of food and shelter but also as the basis for their social, cultural, and religious practices and are crucial for economic growth [28-30].

Equal access to land and the security of its management stimulate economic development through investment in land, agricultural production, sustainable management of natural resources, development of a market economy, income from taxation [31]. This process is observed in developed countries, which pursue a well-thought-out and innovative policy of land distribution reform. Conversely, in many emerging market economies, citizens with limited resources often have limited access to land, which, combined with the lack of protection of these rights, often leads to extreme poverty and hunger.

As a result, the poorest people in the world are those who do not have access to land ownership and property rights [26]. With the adoption of the new LC of the RK [9], the Republic of Kazakhstan legalised property rights and relatively liberal land exchange rules in the hope of stimulating the land and credit market and, as a consequence, increasing the efficiency of agricultural production [32]. The LC of the RK [9] contains amendments to a number of institutions of land law.

Changes related to agricultural land have been introduced, namely the introduction of private ownership of them while establishing new legal principles for acquiring and owning, using, and disposing of such land. There was a need to consolidate the system of regulating land ownership. A variety of legal methods of exercising property rights are used, including all the signs of land ownership. Given the absence of such a concept as "ownership" in certain types of real rights that previously existed in land legislation, the rights of land use of citizens and farms were known from the legislation of earlier times.

This basic regulatory act does not eliminate shortcomings, deviations, and in some aspects, on the contrary, worsens further legal regulation and proper reform of the legislative framework. According to the researcher, the fact of repetition can be stated, since there is a similarity of socio-economic conditions and prerequisites for reforming the land and agrarian law of the

Republic of Kazakhstan, and the main approaches and provisions of the Eastern European doctrine of legal support for land reform.

Researchers emphasise the irreversibility of the consequences of land degradation. In particular, B. Coulibaly et al. [26] write that land degradation is manifested not only in the simplification of the landscape, deterioration of the condition, composition, but also in the decrease in their useful properties and organic functions. In the context of economic and social aspects, the process of land degradation points to the problem of institutional regulation and helps to understand its socio-political scale. The elements of land management regulation need changes that will not only make effective use of economic incentives but also raise awareness and outline the potential of direct land users to reverse this negative trend.

According to a study conducted by S. Baizakov and Z. Toktassynov [33], in Kazakhstan, 48 million hectares of pastures have already been degraded, which has led to a decrease in soil fertility by 30-60%, and about 36% of forests have already been degraded, especially in coniferous and sabre plantations. Considering the cost of ecosystem services, saxaul forests are now worth 1.6 billion USD, and this is only half of the country's forests. The benefits of investing in sustainable land management practices may increase from 231.1 million USD in the first year up to 378 million USD in 10 years. Among these funds, a substantial proportion comes from carbon sequestration.

State regulation of land relations in the Republic of Kazakhstan

Such regulation focuses mainly on the administrative aspect. This is due to the fact that state authorities have certain legal opportunities to interfere in land relations in terms of restricting the right of ownership of land users to own, use, and dispose of objects of land ownership or in terms of determining the procedure for exercising this right.

Thus, administrative-legal regulation of land relations is closely related to the granting of certain powers to state regulatory bodies of these relations. In turn, citizens demand not systemic changes, but an effective state approach, primarily to the basic democratic ideals of society.

Improvement of land legislation requires, first of all, the solution of such issues and the adoption of such norms: optimisation of the procedure for granting land rights within settlements; improvement of the mechanism for granting land plots for individual housing construction. Moreover, clarification of the concepts of "land that is not issued" and "agricultural land that is not issued"; development of a policy regarding existing land reserves; explanation of the current legislation regulating the use of land by small land users.

Thus, according to the OEC, in 2019, China was the second main export destination of the Republic of Kazakhstan in the rating of import partners. Tensions between the two countries continue to negatively affect the possibilities of relations and create a set of beliefs that provoke complaints about the behaviour of Chinese investors, such as labour imports and poor quality. It in turn develops into deeper discontent among the population of

Kazakhstan and their frequent violation of labour relations in relation to their Chinese colleagues. A biased attitude towards Chinese investors reduces capital inflows and the possibility of developing stable bilateral relations, including in the land sector.

However, there is another factor that is in a special report for the Caspian Policy Center [34], which states that the biggest aspect of anti-Chinese sentiment in Central Asia stems from the approach of local authorities to China. According to the researcher, anti-Chinese protests are often anti-government in nature, and while Chinese companies may indeed seek to take advantage of the institutional weakness of Central Asian countries, the local population is more disappointed that they perceive this situation as the inability of governments to protect the interests of their people.

It is difficult to disagree with this statement since in recent years anti-Chinese trends have been clearly visible in countries whose economies are developing, including the Republic of Kazakhstan. Such views indicate the desire of growing economies to gain independence and a foothold in trade and economic relations in the region, with further access to global markets. The People's Republic of China, as a global player in the international economic arena, does not contribute to this, so the mood within smaller growing states is often set up contrary to monopoly ownership of markets.

Today, the Republic of Kazakhstan continues the process of creating a system of land legislation and implementing agrarian reforms aimed at increasing the productivity of land resources. The effectiveness of these reforms often depends on the level of their implementation, which varies depending on how much political elites in these countries are interested in such processes. As a result of this dependence, legal land rights and farmers' perceptions of such rights can conflict with each other and create an uncertain and dangerous environment for farmers and small landowners themselves.

By conducting farm-level examinations in Kazakhstan and Uzbekistan in 2019, Z. Akhmadiyeva and T. Herzfeld [35] established that legal rights and actual agricultural practices in many cases do not coincide. Deviations are manifested primarily in the following two aspects: farmers are engaged in prohibited activities; farmers do not know all the privileges and opportunities that national land legislation provides; farmers do not use all the opportunities provided by the state to get more financial benefits (Figure 2).

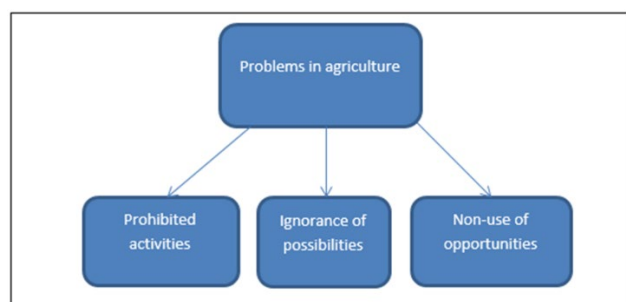


Figure 3. Problems related to farming by farmers in the Republic of Kazakhstan

Source: Z. Akhmadiyeva and T. Herzfeld [35].

Such deviations indicate the ineffectiveness of the policy in the field of land relations, data analysis, and legal methods of protecting land resources. Thus, political elites, through controlled politicians, are encouraged to review legislative restrictions on land use to benefit the political forces themselves. The author sees this as a big problem that needs to be solved. In addition, the government should implement reforms in the judicial system, in particular, to allow farmers and land users to apply to the courts to resolve disputes.

However, according to the author, the executive and judicial branches of government should ensure an effective, transparent, and fair resolution of such disputes, which is currently questionable. The high level of corruption, and the pressure of political elites on these branches of government, is substantial and does not provide fair access for small landowners to develop recommendations and implement legislative initiatives. Lobbying the interests of individual political elites remains, unfortunately, a priority.

As for the use of technologies of geographic information systems (GIS), which provide the possibility of creating a single digital system for analysing and processing information, as T. Julamanov et al. [36] write. In recent years, JSC "National Center for Space Research and Technology" has established the National Space Monitoring System of the Republic of Kazakhstan.

It consists of a developed GIS technology for spatial monitoring of agricultural production in the Republic of Kazakhstan. The developed system, according to the author, will increase the efficiency of problem-solving, simplify and speed up work on management solutions.

It is difficult to disagree with this statement, since GIS can really be used not only for analysing remote sensing data, but also for field research. In this case, scale means speed, which provides urgent processing of the received information and its visualisation on maps for managing, monitoring, monitoring and evaluating processes that change at the same speed.

Observations of satellite images allow quickly identifying and accurately determining the coordinates of unexpected cases of major accidents, dangerous manifestations of natural disasters, and areas of natural processes that can lead to disasters, predicting and tracking the slowest deformations of the Earth's surface [37; 38]. The researchers also note that the graphic material developed using satellite monitoring methods and the use of ground-based GIS technologies in the Republic of Kazakhstan allows visually observing changes in the state of land.

They are also making timely decisions on the reclamation of land subject to erosion and other processes of destruction of the fertile layer of the Earth. Such data, admittedly, are very important for obtaining complete information about the state of land resources in a particular region, especially in conditions of hard-to-reach geographical landscapes [39-41].

A. Tokbergenova et al. [42] in their work note inappropriate activities on land management. Activities such as pasture land reclamation and arable land abandonment are among the most important factors leading to land desertification. Desertification, as in other countries, in the Republic of Kazakhstan affects the

environment of the country in general, its agriculture and animal husbandry. In this context, it is also important to emphasise that it is necessary to quickly and accurately determine the location of desertified land and understand the main causes of desertification in different regions of Kazakhstan.

Unfortunately, the researchers do not attach sufficient importance to this aspect. Evidently, to implement effective land management, it is necessary, in particular, not only to use the new technical framework for detecting desertification but also to take targeted administrative-legal measures in relation to agriculture and industry. Due to the conducted study using the analysis of remote sensing of the Earth, Y. Hu et al. [5] were able to accurately identify patterns of spatial distribution of land vulnerability to desertification, trends in changes and ecosystem stability, and obtain a map of the spatial distribution of land in the Republic of Kazakhstan.

The authors also identified the driving factors of desertification in various regions of Kazakhstan in terms of climate change and human activity. Researchers believe that this study can help government officials and researchers pinpoint key areas of desertification and understand the negative impact of land development on agriculture, animal husbandry, and other economic activities.

According to the author of this study, it is necessary to conduct more targeted actions in the system of administrative-legal regulation of the Republic of Kazakhstan. The purpose of that is to prevent the creation of territories with a high risk of desertification and prevent potential desertification of land.

The fact that Kazakhstan still contains a substantial share of “almost natural” temperate pastures is indicated by J. Kamp et al. [43]. It is also important to note that the management of Kazakh steppes, adjacent deserts, and mountains has global implications for plant and animal biodiversity, and at the national level for the well-being of the population and the economy in general. This is regarded in the study by C. Kerven et al. [44], in contrast to the previous researchers. The authors analyse pastures and agricultural areas in the northwest of the Republic of Kazakhstan.

Globally, this analysis showed that the increase in livestock did not lead to a substantial increase in pastures, which indicates the intensification of the livestock system with fattening grounds – livestock raised at the expense of crops plays an increasingly important role. This aspect is emphasised by A. Dara et al. [45].

Financial incentives, in particular, subsidies for fodder crops, can change the decisions of large producers regarding livestock management, changing the balance of costs and revenues from seasonal grazing. In the current context, it is important to note that legislative models concerning the seizure of land by foreign states the example of the EAEU countries, the EU and the United States have shown the possibility of applying certain provisions in the legislation of the Republic of Kazakhstan.

N. Sutarni [46] suggests using two such practices: to apply the minimum amount of compensation for the withdrawal of land for socially important needs (from 125% to 200% of the market value, depending on cases of alienation). When withdrawing land plots to accelerate

economic development in the interests of private entrepreneurship, interested structures should pay equivalent compensation. In general, such a proposal is appropriate and the introduction of such changes could help to establish internal economic processes in the state, regardless of external market conditions.

Based on the discussion, it can be concluded that Kazakhstan’s land and agrarian law uses the basic principles and postulates of the Eastern European doctrine of legal implementation of land reform. Today, state support in the Republic of Kazakhstan requires solving the following issues: improving the mechanism for granting land rights within localities; land plots for individual residential development. Moreover, a clear distinction between terminology in terms of the concepts of “land that is not issued” and “agricultural land that is not issued”; development of a management model for “reserve lands”.

Special attention should be paid to the norms of land use for cottage construction, gardening, personal farming, and residential development. Legislative norms related to land use in general need to be reviewed from the standpoint of expediency, and not just to support the interests of political elites. In addition, the issue of a moratorium on the sale of agricultural land remains unresolved.

Conclusions

Summarising, land relations are the object of administrative-legal regulation and arise in the process of performing established functions by state authorities. The state administration apparatus applies not only legal and economic but also a number of organisational and social means to ensure the effective use and protection of land resources. Administrative-legal regulation of land relations in the Republic of Kazakhstan is provided by means of state authorities and local self-government bodies.

This approach ensures efficient use and protection of land resources, which in turn encourages landowners and partially provides them with funds to increase the productivity of land plots. The processes of reforming the political and economic systems of the Republic of Kazakhstan required changes in the field of land relations, which was reflected in the adoption of a number of important legislative initiatives in recent years. These normative legal acts and their additions set a positive vector for the development of administrative-legal regulation of land relations in the Republic of Kazakhstan.

Given that Kazakhstan’s land and agrarian law is mainly based on the postulates primarily of the Eastern European doctrine of legal support for land reform, evidently, the consequences of land degradation can help to see this problem as institutional and understand the magnitude of its socio-political importance. A special place in this process of awareness is occupied by the economic and social aspects of land relations regulation in the Republic of Kazakhstan.

The conducted study, confirmed by the conclusions of other authors, can help representatives of state regulatory bodies in the Republic of Kazakhstan identify and understand the negative consequences of desertification, land degradation, and other economic activities on the ecosystem in general. The need to make effective changes in the administrative-legal regulation of land relations in the Republic of Kazakhstan is highlighted. Notably, such

changes will work effectively only in the condition of the full understanding and support of new regulatory mechanisms by all subjects of land relations – both central authorities and local authorities and directly land owners.

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Conflict of Interest

None.

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Удосконалення адміністративно-правового регулювання земельних відносин у Республіці Казахстан

Дастан А. Каірбаєв

Казахський національний аграрний дослідницький університет
050010, просп. Абая, 8, Алмати, Республіка Казахстан

Тлевхан К. Ахмеджанов

Казахський національний аграрний дослідницький університет
050010, просп. Абая, 8, Алмати, Республіка Казахстан

Аманжол Є. Каїрбай

Євразійська юридична академія імені Д.А. Кунаєва
050000, вул. Курмангази, 107, Алмати, Республіка Казахстан

Гаухар М. Рахімжанова

Казахський національний аграрний дослідницький університет
050010, просп. Абая, 8, Алмати, Республіка Казахстан

Анотація

Актуальність. Адміністративно-правове регулювання у сфері земельних відносин в Республіці Казахстан сьогодні спрямоване на забезпечення функціонування системи державного управління стосовно володіння, користування та подальшого розпорядження земельними ресурсами та має на меті передусім створення ефективної нормативно-правової бази.

Мета. Метою дослідження є вивчення та аналіз адміністративно-правового регулювання земельних відносин в Республіці Казахстан.

Методологія. Методологічною основою дослідження є такі методи та прийоми наукового пізнання: системно-структурний, діалектичний та порівняльний методи, систематизація, узагальнення, синтез та абстрагування, історико-правовий, формально-правовий, нормативно-догматичний та порівняльно-правовий методи дослідження.

Результати. Проведене дослідження дозволило сформулювати розуміння адміністративно-правового регулювання земельних відносин в Республіці Казахстан та проаналізувати його особливості. У дослідженні описано механізми та шляхи удосконалення адміністративно-правового регулювання.

Висновки. Економічні та політичні процеси в Республіці Казахстан в останні роки продемонстрували необхідність внесення змін не лише в систему регулювання земельних відносин, а й у важливість реалізації та вдосконалення земельної реформи. Ці зміни знайшли відображення в роботі щодо прийняття низки законодавчих ініціатив та нормативних актів в Республіці Казахстан. Модифікація підходу до адміністративно-правового регулювання земельних відносин в Республіці Казахстан в останні роки ініціювала впровадження земельної реформи та адаптацію цього регулювання до її вимог. Таким чином, якщо рекомендації, зроблені на основі дослідження, будуть реалізовані, це дозволить прискорити впровадження земельної реформи та покращити загальне адміністративно-правове регулювання у сфері земельних ресурсів.

Ключові слова: управління земельними ресурсами; землевласники; мораторій; деградація земель; збереження ресурсів.