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THE NATURAL FEATURES OF EAST KAZAKHSTAN

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The East Kazakhstan region (East Kazakhstan) is located in the northeastern part of the Republic of Kazakhstan. It occupies the southwestern periphery of the Altay mountain system (South-West Altay or Kazakhstan Altay). "Altay" from the Mongolian means "golden mountains". Kazakhstan Altay consists of three well-isolated mountain regions: Rudny Altay, South Altay and Kalbinsky Altay. An extensive mountain Zaysan and the Saur-Tarbagatay joins it from the south, the Irtysh plain and the eastern part of the Kazakh low hills on the west. Territory of the East Kazakhstan region extends 800 km from north to south ($51^{\circ} 38' N - 45^{\circ} 32' N$) and 600 km from west to east ($76^{\circ} 46' - 81^{\circ} 21' VD$). With an area of 283.23 sq. km the East Kazakhstan region takes the third place in the Republic of Kazakhstan. In this territory three European countries such as Bulgaria (111 000 sq. km.), Greece (132 000 sq. km) and Albania (29000 sq. km)) could be easily accommodated. The population of East Kazakhstan is 1396.7 thousand people. The administrative center is the Ust-Kamenogorsk city.

East Kazakhstan is one of the largest industrial centers of the Republic of Kazakhstan, where mining, quarrying, non-ferrous metallurgy, heavy machinery manufacturing, power engineering and agricultural areas of the economy are highly developed. The territory of East Kazakhstan has an important geopolitical position as a key region of Eurasia. It is the junction of the four largest countries: Kazakhstan, Russia, China and Mongolia. Passing through the territory of these countries are the shortest land routes from the eastern regions of Eurasia to the west and from southern to northern regions. The Irtysh

River, which flows in the East Kazakhstan region, is a transboundary river of the three countries (China, Kazakhstan and Russia). The transboundary nature of the Irtysh River determines the difference of interest in its use defined by the specific natural and ecological conditions of the neighboring countries. In this regard, issues of transboundary pollution transport and biodiversity are urgent and require not only regionally but also internationally decision-making.

East Kazakhstan is a unique region of the Republic of Kazakhstan. It is located deep in the largest Eurasian continent. From the south the East Kazakhstan encircles the steppes of Kazakhstan and Central Asian deserts, Siberian taiga gets here from the north-east. Here, where the stark Siberia meets the hot Central Asia, a region of unique landscapes with a unique world of plants and animals, the land of amazing natural features was formed. On a variety of landscapes and the richness of the earth's interior the East Kazakhstan can compete with entire continents. Metaphorically it is called "the continent, compressed to the limits".

The East Kazakhstan region geographical uniqueness lays in the fact that it is located in the depths of the largest Eurasian continent within its central area on the border of the great Western Siberia, Central Asia and Kazakhstan plains. On the territory of the East Kazakhstan there is the Earth's continental pole and the geographical center of Eurasia. The nature of the East Kazakhstan is varied and unique in many ways. Contrast is one of its main features. On the territory of East Kazakhstan there is the legitimate vertical zonation of climate, vegetation and soils.

Geological structure

The geological development of the territory of East Kazakhstan has passed a long and difficult path. Geological structure is notable for its tectonic complexity and age diversity of structural elements. Structural systems are composed of sedimentary, metamorphic, magmatic formations of the lower and upper Paleozoic volcanic-dominated sediments. The territory belongs to the field of secondary mountains formation, accumulative plains and elevated plains of denudation.

Topography and climate

The topography of the Eastern Kazakhstan is also complex, diverse and contrasting: from the plains, foothills and hilly hilly on the left bank of the Irtysh river basin and to the mountain on the right bank. The altitude varies in the range from 145 m to the north-west to 4,500 m above sea level in the east (Beluha - 4506 m). Mountains occupy 80% of Kazakhstan or South-West Altai and are an outpost of High Asia. Mountain systems, barriers on the territory of East Kazakhstan, have a complex structure. They are the powerful mining sites with the centers of glaciations and narrow valleys. The mountain ranges fan out to the west. Such intrageographical and barrier advantage of Altai plays an important role in the global-planetary processes. First of all, it affects the climate of East Kazakhstan. Latitudinal zonation of climate is typical for such latitudes for the rest of the territory of Kazakhstan but in Eastern Kazakhstan region it is disrupted by the presence of a greater part of the complex mountainous terrain and its effects on circulation and radiative processes. The climate of East Kazakhstan is generally transitional from temperate continental to dramatically continental. In the winter the whole territory of the region falls under the western spur of a powerful Asian (Mongolian-Siberian) anticyclone. Anticyclone determines the

prevalence of the northern, northwestern and northeastern cold intrusions. In the summer the area is affected by a powerful Asian depression, which occupies almost the whole territory of Kazakhstan. The depression center is located over the Iranian plateau and the Thar Desert on its eastern periphery. The hot, dry air masses from the south and southwest often penetrate to the region during the summer. Winter in the East Kazakhstan region is long and cold with strong frosts. The summer is hot. Temperature conditions in the winter are formed under the influence of negative radiation balance and frequent emissions of the Arctic north air masses, which create an extremely harsh winters. In the mountains in winter there is an intense radiative cooling, the flow of cold mountain air and its stagnation in the foothills and valleys of closed areas. The upper parts of slopes that have good air exchange with the atmosphere have a higher temperature compared to the valleys and hollows.

A characteristic feature of the spring and autumn periods is the widespread instability of weather and frequent recurrent cold. In the mountains of East Kazakhstan at altitudes ranging from 600 to 1400 meters an increased frequency of clear sky conditions and intense solar radiation zones are allocated. According to the number of hours of sunshine this zone is not inferior to the famous Swiss Davos resort and that is great potential for development in the tourism and recreational facilities in the foothill and mountain areas in all seasons.

The wind regime in the region is characterized by extraordinary diversity mainly due to a variety of the relief. In the winter on the plains the winds of the southern and south-western areas dominate. Closer to the mountains in the piedmont area south and south-east winds dominate. In the mountains the wind direction depends on the orientation of the mountain valleys. All the main valleys in

the area are oriented from west to east and it is noted here mainly the west-east transporting. In the summer, everywhere, except the mountain valleys of northern winds the north-eastern direction prevails. In the mountain valleys as in winter West-east winds dominate. Wind speeds mostly have small values. Foothills and mountain areas of the field are characterized by the low-speed and high frequency of calms (80%). Average wind speed is 2.5 - 3.5 m / sec. However, in some areas strong winds (15 m / s and more) are no exception, and the average number of days per year with such wind reaches 18-20. The greatest wind activity is observed at the station Zhangiz-Tobe, Karaul, Zharma. In the long-term average for the autumn-winter period (October - March) it is observed here from 70 to 105 days with strong wind (force 15 m / s and more). These areas are mostly favorable for wind power development.

Moisture regime caused by the fact that the territory of the region is inaccessible for moist air masses in winter and summer. The incoming air masses here are generally poor in moisture so the climate of the region is almost universally characterized by a denominated aridity. As we approach the mountain ridges, which are activated under the influence of atmospheric fronts, precipitation increases. Depending on the altitude, landforms and the exposure of the slopes in mountainous areas the amount of precipitations is about 400-800 mm and on the western slopes of the open west-east transport this number is up to 1500 mm (Malaya Ulba). Drier inland valleys are narrow leeward slopes. Especially dry southern slopes are the Altai Mountains slopes facing the basin of Lake Zaysan, the annual amount of which is only about 160 mm.

The radiation natural factors include elevated levels of background radioactivity with characteristics in the field of local anomalies and the locations of granitic

masses of different ages. All the total radioactivity increases and natural radioactive elements in the region are due to the outputs on the active surface of volcanic-sedimentary rocks and granitoids. Natural radiation background field is high and reaches 31-56 mc / hr. At the same time the territory of Eastern Kazakhstan is poorly studied for the radon danger. Landscapes of Eastern Kazakhstan are very different, not only because of the history of development of the region, but also because of the fact that it joined the Western Siberia, Central and Middle Asia. "The continent that has been compressed to the limit" gives an opportunity to visit these northern "singing" sands of the desert, halophytic in semi-arid landscapes, in grass-forb and feather grass steppes, crossing the mountain taiga belt blackened forests and pine forests, to appear in alpine splendor of magnificent sub-alpine and alpine meadows, then into the mountain tundra belt, and finally ascend to the eternal snows and glaciers. The region is isolated 3 subclasses, 3 types and 20 species of plains landscapes and class 3 type, 7 high-altitude zonal geosystems, 19 geocomplexes and 37 species of mountain landscapes of the class.

Natural landscapes, mountain and river systems in the East Kazakhstan are joined by the main water artery Irtysh River. The length of the Irtysh River is 4248 km, which is longer than the largest Siberian river Yenisei and Ob. The catchment area of the Irtysh is more than the Volga River and covers an area of 1,595,680 km². East Kazakhstan is a major area of the Irtysh river basin with flow modulating of 3.8 - 5.6 liters / sec from 1sq. km per year. Water losses on evaporation from water surfaces in the East Kazakhstan are insignificant in comparison with other regions of the Irtysh River Basin. The hydrological regime is subject to rapid changes and is different from the natural, which is associated with regula-

tion of river flow in the territory of Eastern Kazakhstan in three reservoirs. The main purpose of water reservoirs is energy. The nature of the natural flow of the Irtysh River basin is mainly under the influence of melting snow and glaciers. River East Kazakhstan belongs to the basin of the Arctic Ocean and Inland drainage basin of Lake Balkhash - Alakol. East Kazakhstan region has a fairly dense network of rivers and lakes and it is rich with underground water. Its mountain ranges are the centers of the Southern Altay glaciating. Water is closely linked to climate and other natural components and has a direct impact on them. The valley of the Irtysh intersects region from the south-east to the north-west. On the right bank of the Irtysh mountain landscapes are characterized by predominance of forest, herb-grass species, and abounding in great density of river network. Rivers are characterized by significant deviations (40-50 m by 100 m and more), high-velocity flow (2.5 m / s).

All the rivers in the area are mostly snow fed. Water in the rivers during floods is little mineralized, in low water salinity increases. According to the chemical composition the water is mainly hydrocarbonate-calcium during the year and is suitable for all types of domestic and agricultural water supply, irrigation of fields and technical needs.

East Kazakhstan has significant groundwater resources of good quality. There are outcrops of thermal water (radon sources) with a water temperature of 43 degrees, plus 23-24 degrees. (Near the Rakhmanov lake and the Zaysan hollow). Within the Kazakhstan Altay region there are more than 350 glaciers with a total area of 99.1 square kilometers.

Flora and fauna of the East Kazakhstan region is known for its richness in rare species due to a large variety of natural conditions. The region has preserved relics of the Tertiary period - turanga pegs, and Priirtyshsk Kaindinsky pine forests, fir

grove Sinegorsk.

With very limited forests in Kazakhstan, which constitute only 4% of the total area of the country, the East-Kazakhstan region takes a special place in the forest and hunting resources. It contains almost 70% of the forests of the Republic. Most of the forests are classified as mountain forests and have a soil, climate and water protection value.

Knowledge and study of regional features of natural areas is one of the components for a successful and effective management of natural resources and environmental management in the region, reducing the risks to human health, agricultural development and the adverse environmental factors. The East Kazakhstan region (as it was shown above) has a great natural potential for developing renewable energy sources, primarily wind, solar and hydropower. When analyzing and assessing the ecological state of the territory of East Kazakhstan region, the development of regional environmental programs and strategies must be considered on the basis of the natural characteristics of the territory and the impacts on the environment.

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THE NUCLEAR INDUSTRY: CURRENT POSITIONS OF KAZAKHSTAN AND RUSSIA, FUTURE DEVELOPMENT AND COLLABORATION

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The Nuclear Industry is an elite club of the modern world and one of the keys to a prosperous future. The causes of “elitism” are based on historical and economic factors. The history cause refers to the time when there was no ideology of peaceful use of nuclear energy also known as “peaceful atom” and the nuclear industry was related to the military-industrial complex. This heritage generally was transformed to a new type of nuclear industry, of which Kazakhstan could be an example. The economic cause is obvious due to the expensive initial costs and running costs for research and development. Therefore to be a part of the nuclear industry society is limited by the level of GDP and long run development (Kirienko, 2010). In fact, the market of the nuclear industry is represented as an oligopoly. In spite of the fact that the nuclear industry includes different types of activities (uranium mining; uranium enrichment; nuclear machine engineering; nuclear fuel fabrication; electricity generation; electricity export/import; NPP design, engineering and construction; service and maintenance of NPP components), only a few countries are dealing with these processes and even fewer countries have all cycles of the nuclear industry. This kind of “elitism” provides unprecedented opportunities for the countries of “the club.”

The first opportunity is related to energy sources. The existing level of development worldwide requires a huge amount of resources. To sustain this level, or simply to stay alive, humanity is demanding energy. Obviously, not only energy is needed to be supplied. Nevertheless, energy is only the source for action. For people this is food and for people it is

food and for industry and progress it is energy. From the invention of electricity, the new age had come and people started to produce energy from almost everything. The existing volume of production is enormous and only coal, oil, gas, and now atomic energy, can satisfy this demand.

The role of the oil and gas industry is beyond doubt essential and will hold its position probably for the next forty to fifty years. Nevertheless, the latest military establishments, political crises, the growing demand for energy, and a lot of pressure to oil and gas market make it over sensitive to any influence. All these fluctuations play huge and usually not a positive role for industry’s development. Foreseeing all of these upcoming events, most developed countries have revised their energy programs for the nearest 20 years, especially, nuclear programs. Now, such countries as China are planning to build from 40 to 50 nuclear power plants (NPP), India 9 plants, USA 19 NPPs, according to Minatom Russia will construct about 40 energy block (<http://www.minatom.ru>, 2011), and Japan was planning to construct 5 plans before the Fukushima accident. Brazil, Turkey, Chile, the Czech Republic, and Bulgaria, are each planning to build from 2 to 5 NPPs. Additionally, the nuclear energy consumption giants France and Germany will remain with their programs. These developments put uranium as a key resource of XXI century. Problems facing the oil and gas industry include: high costs of the raw materials, price fluctuations and the volume of reserves. Oil reserved are limited to 50-70 years and. Gas reserves are limited to not more than 200 years. Whereas uranium is a mostly price stable resource and even the

“jumps’ in its price would not affect the final price of energy because the share of uranium in creating energy is approximately 8 percent (Kirienko, 2010). Secondly, the ecological issues, the emission of CO₂ and other harmful elements is lower in NPP’s than in coal, gas, oil power plants, without taking into consideration the alternative sources of energy due to inability to satisfy the energy demand. But to understand why the nuclear industry has a great importance for Kazakhstan and Russia, it is needed to see what is the attitude to nuclear industry within the countries (public opinion), especially, after the Fukushima crises; what is the nuclear energy market itself and what are the hidden opportunities, and to compare with leading energy industries as oil, coal and gas, and after that defining the path of the companies (Kazatomprom and Rosatom), evaluating their strategies and to analyze what is the nearest future for them and what can be done in order to make it more optimistic.

Primarily, the nuclear industry mostly oriented on nuclear energy production and the nuclear fuel market plays one of the main roles, even if the nuclear industry products is used in medicine, high-tech industries, desalination, war industry, etc. The nuclear energy market can be determined as oligopoly, cause the expensiveness of initial costs to start nuclear programs, the rareness of raw materials (Uranium) but all nuclear market can be called oligopoly, only few countries has all cycle of production from mining the uranium, uranium enrichment, producing nuclear fuel, construction NPPs, maintenance them. Nowadays, the lion’s share of uranium production goes to NPPs. The 440 reactors produce 2,4 kw. of electricity, or approximately, 16% from world electricity production, now only 31 country posses NPPs. In developed industrial countries the average share of nuclear energy is 36%. In last 10 years the average annual

increases about 3% (Stock market journal, 2002). Now there are over 440 commercial nuclear power reactors operating in 30 countries, with 377,000 MWe of total capacity. They provide about 14% of the world’s electricity as continuous, reliable base-load power, and their efficiency is increasing. The fifty six countries operate a total of about 250 research reactors and a further 180 nuclear reactors power some 140 ships and submarines (www.world-nuclear.org, 2011).

The overall cost of electricity production of k.w.h. (including all capital expenditures) in NPPs is fluctuated between 3 to 5 percent. The cost for electricity which is produced in other types of power plants is almost the same. The advantage of nuclear power engineering is in the tiny share of fuel costs –from 5 to 9% from total expenditures. But, at other types of power plants which are working on gas, oil, coal is not less than 50%. The kilogram of natural uranium is equivalent in getting energy to 10 tons of oil, 15 tons of coal and the kilogram of enriched uranium has the capacity 8 times higher.

The essential increase in quantity and power of nuclear reactors can be observed in period from 1975 to 1986. It is related to several oil crises and to significant rise of prices for oil. Since 1986 the development of nuclear power industry has slowed down, firstly, due to the consequences and negative impact of Chernobyl accident and as a result negative attitude from the public, and, secondly, the decreasing of prices for competitive raw materials as oil, gas, coal. Germany and some other European countries have steadily cut down their nuclear programs. The increase for prices for fuel in late 1998, led to restarting of construction NPPs. Now the prices for fuel and gas in a long run are always growing and the use of the nuclear energy can be a key to diversifying energy source base, as none of the countries want to be depended on one kind

of source. Thus, there is a question not about choosing one kind of source, but the question of independence and stability. The price for fuel for nuclear power plants is extremely lower, than fuel for oil, gas or coal electricity stations, nonetheless, the capital expenditures to construct the nuclear reactor are much higher. Consequently, from practical point of view, the competitiveness of nuclear power plants in most of regions is equal to other type of power stations. On the world market we can observe always growing prices for oil and gas and increasing emission from burning this fuel we can say that nuclear energy become more attractive (Stock market journal, 2002).

As for capital expenditures there are different methods how to calculate them, but it plays one of the main roles in calculating the final price for nuclear energy. Usually, the 2/3 of costs is fixed costs which do not change if power station works or doesn't work, and the last part it is production costs. The main part of fixed costs goes to cover the loans which were taken to build the power station, but at the same time there are costs which should be paid for shut down the nuclear station after service period. Fixed costs include all costs of exploitation, servicing, repairing, but do not included costs for fuel. Even here the costs can differ because of the currency which was used to calculate all expenditures, due to within 5-10 years during paying the loans there is inflation, changes between currency rates and it can make a big difference in calculation (Tomas, S, 2005).

The ecological issue is not as problematic as could be seemed at the first glance. The difference in heating equivalent in comparison with coal and other types of fuel is quite strong (in spite of the fact that in both types of fuel, the power stations uses only 33% of heating efficiency). For producing 1 mwt 3,1 millions of tons of coal is required in one year

(with power plant utilized capacity 80%), or 24 tons of uranium which is enriched for 4%. The big difference in using the quantity of fuel plays a vital role in a quantity of waste, which remains after producing electricity. After unloading of waste from nuclear reactor which capacity is 1000 mwt. we get approximately 27 tons of wasted uranium fuel. It is very radioactive and emits a lot of heating, but after regeneration 97% of this fuel can be used again. The last 3% (about 700 kilograms) – it is highly radioactive wastes, which should be isolated properly from the environment. The little quantity of waste makes this process feasible, even if wasted uranium fuel will not be regenerated. Twenty seven tons of waste in a year is not a big amount in comparison with waste from coal power station. The collection of radioactive elements (wastes) for transporting and storage can be easily done. Coal power station with capacity of 1000 mwt. every year emits about 7 million tons of carbon dioxide, plus 200 000 tons of sulfur dioxide, which in most cases is the main source of polluting the atmosphere. Among others wastes which generate during coal burning is flue ash (usually 200 000 tons in a year) which consist from toxic metals, arsenic, cadmium, mercury, organic carcinogens, mutagens (elements which can be a cause for cancer, genetic mutations), and also radioactive elements which exist in nature. Without full sealing such wastes can damage people and environment. Every method of getting energy related to wastes and threat to environment. But the nuclear power industry is unique in terms of taking care for transporting, collecting, storage and burying the wastes. The nuclear plant helps to reduce the emission of carbon dioxide for more than 2 billion of tons and still 7 billion of tons is polluted our atmosphere. (The coal industry was taken as Kazakhstan produces energy from the coal) (Stock market journal, 2002).

All these factors make the nuclear energy more attractive, especially, for Kazakhstan and Russia. Moreover the demand for uranium in the last years was satisfied by storage from military stock, but it is predicted that all these programs will be shut down and there will be disproportion between supply and demand. Today it would appear evident that the world's power industry will be further developed due to construction of nuclear power plants, as more and more countries announce ambitious plans for construction of nuclear reactors. In spite of the accident in Fukushima, the world nuclear community is solid with their decisions and will not stop their nuclear programs. Regarding the background, the issue of coverage of a forthcoming natural uranium deficit becomes ever more critical. Taking into account these tendencies - having unique natural resources, effective low-impact technology and modern management solutions at their disposal - Kazatomprom has initiated a program for a large-scale increase of uranium production - from 3 thousand ton in 2003 to 15 thousand ton by 2010. (www.kazatomprom.kz, 2011) and succeed this program but the demand will not be covered. It is a unique market where demand is higher than supply and the price for raw material were very high for a long period of time (Kirienko, 2010). Another specific aspect of the uranium energy market is that all companies are working on a long 5-10-year contract and that all mined uranium is contracted (Nuclear community of Kazakhstan, 2009). At the same time Rosatom is one the first place in uranium enrichment and both companies can achieve great results. In order to understand the situation and how Kazakhstan and Russia can be involved the overall situation in nuclear industry of Kazakhstan and Russian should be clear.

Kazakhstan

The Republic of Kazakhstan can

boast about significant potential for nuclear power industry development and has the following objective preconditions for this:

1) Close to 19% of the world's explored uranium reserves are concentrated within the Republic of Kazakhstan;

2) It has its own developed uranium mining and processing industry;

3) Fulfillment of Kazatomprom's strategy, related to creation of a company with a complete nuclear fuel cycle, will allow for the provision of a nuclear power industry, in Kazakhstan, with nuclear fuel produced within the country. It will allow for the possibility of setting up lower tariffs for electric power;

4) Qualified personnel who have been providing continuous work at the world's first pilot commercial fast breeder reactor BN-350, for over a quarter of a century, is still working in Kazakhstan. Since 1999 the reactor has been under decommissioning;

5) Since Soviet times Kazakhstan has had a unique scientific base for research in the sphere of nuclear physics, as well as qualified scientific and technical staff;

6) The Republic continues to operate successfully three research nuclear reactors, for scientific purposes;

7) There is the infrastructure for fundamental and applied research, within the sphere of the nuclear power industry and nuclear physics, including work on justification of nuclear power industry safety, testing of advanced fuel for nuclear reactors and development of nuclear engineering projects;

8) A national system of nuclear and radiation safety integrated with the IAEA;

9) A legal and normative framework regulating main aspects of activity relating to peaceful use of nuclear power (www.kazatomprom.kz, 2011).

Kazakhstan's ambitious plans to expanding nuclear power generation reflect

Kazakhstan's desire to forge ahead in world energy markets and to avoid a force-majeure situation in the domestic energy market. Kazakhstan is at risk of changing from an energy-abundant country into one with a significant energy deficit. Against an annual rate of growth in GDP of 9%, the average annual rate of energy consumption stands at 6%. There are 71 power plants in the country, half of them built before 1980. The maximum generation capacity of these plants is currently below 73 billion kilowatt hours, yet annual energy consumption is predicted to reach 74 billion kilowatt hours by 2008. The uneven development of the national grid has exacerbated the situation. Major generating capacities are located in the northern part of the country. Three oblasts – Pavlodar, Karaganda and East Kazakhstan – account for over 70% of total power generated, but power loss in transit amounts to 20% of the total on average. The construction of small- and medium-capacity power plants is one way of reducing power loss and geographical inequality. The greater the distance between generating capacity and feedstock supply, the lower the cost effectiveness of the power plant; it is very costly to transport coal across the entire country or to lay a dedicated gas pipeline. Developing hydro-electric generation in some Kazakh regions will not be a significant factor in reducing the energy deficit. Nuclear power plants are a more effective solution to this since nuclear reactors are refueled every five years. Also, Kazakhstan is able to supply nuclear fuel for all its domestic requirements. The design and feasibility study for the plant will take three years, and its construction will take a further five years (E. Vinokurov, 2008).

Today, the KazAtomProm holding manages six areas of activity: geological exploration; uranium mining; metallurgical engineering; energy; scientific support for production and staff training; and so-

cial security. KazAtomProm owns shares in several uranium mining joint ventures: KatCo (with French company Cogema/Areva); Inkai (with Canadian company Kameko); Zarechnoye (with Russian TekhSnabExport); and UKR TVS (producing nuclear fuel with Russian-Ukrainian partners (Vinokurov E., 2008).

At the same time Kazatomprom plans to mine 18,000 tons of uranium this year. Vice President of Kazatomprom National Atomic Company JSC, Sergey Yashin, has said it at the IV Kazakhstan Investment Summit. According to him, the company mined record amount - 14,000 tons of uranium last year. The potential and power reserves allow increasing mining until 25,000-26,000 tons of uranium. But it will depend on demands of the world nuclear industry. Sergey Yashin noted that the country's political stability and good mining and geological conditions give Kazakhstan big advantages over other states (<http://www.kazinform.kz>, 2011). Kazatomprom tries to find new importers of their uranium as a result China's Guangdong Nuclear Power Group and Kazatomprom agreed on sale to Beijing of up to 55,000 tons of uranium to supply almost half of China's nuclear-power fuel requirements (<http://www.kt.kz>, 2011).

The existing situation on the market is still unstable after the crisis in Fukushima, at the same time the market conditions before the accident proved that the nuclear industry and the nuclear energy has a great potential to compete with traditional energy industries and the current situation in Kazakhstan provides the opportunity to satisfy and diversify and make more independent the energy source base, obtain and develop the high technologies, modernize economy and cast off the raw material dependence.

Russia

Russian nuclear industry is one of the world's leaders in terms of the level of

scientific and technological developments in the field of reactor design, nuclear fuel, experience of nuclear power plant operation, NPP personnel qualification. Russian nuclear industry has a great history starting from USSR and constructing first nuclear power plant in 1954 and producing fuel for it. Rosatom possesses the most advanced enrichment technologies. At the same time, Russian nuclear energy reactors VVER water-moderated and water-cooled reactors have proved their reliability.

Today Russian nuclear industry constitutes a powerful complex of over 200 enterprises and organizations employing over 250 thousand people. Industry structure includes four large-scale research and production complexes: enterprises of nuclear fuel cycle, nuclear power engineering, nuclear weapons application, and research institutes. JSC Atomenergoprom, which consolidates the civilian part of the nuclear industry, is a part of Rosatom State Atomic Energy Corporation. Rosatom unites a number of enterprises of nuclear power engineering, as well as of nuclear and radiation safety, nuclear weapons complex, and fundamental research.

Under present conditions nuclear power engineering is one of the most important sectors of Russian economy. The industry's dynamic development is one of the major conditions of ensuring energy independence of the state and sustainable growth of the country's economy (www.rosatom.ru, 2011). But Russia with the ambitions of leadership in nuclear industry has to set up different international relations.

Rosatom has constructively interacted with international organizations such as the International Atomic Energy Agency (IAEA), World Nuclear Association (WNA), World Association of Nuclear Operators (WANO), etc. (www.rosatom.ru, 2011).

Also, Rosatom participates in three

international innovative programs: INPRO (IAEA) and Generation IV to develop new reactors, and Global Nuclear Energy Initiative. The INPRO Project has developed into a good foundation for cooperation of all holders of new technologies and their future users (www.rosatom.ru, 2011).

Rosatom Corporation also tries to find new reserves for supporting and enlarge their production capability, also using their production possibilities they push their projects to increase their share on the market. One of the main problems of Russian nuclear industry was disproportion in production cycle. In order to overcome this predicament Rosatom acquired controlling stock in one of the main mining uranium companies – Uranium one.

Even if both companies have steadily completed their tactical planned steps of strategic development the process of cooperation will be beneficial for both countries.

From the archive of President of Russia, President of Russian Federation V.V. Putin and President of the Republic of Kazakhstan N.A. Nazarbayev believe that Kazakhstan and Russia possesses substantial resource and technological potential in nuclear energy sector and nuclear industry. In the latest years, due to effective collaboration significant results were achieved in strengthening position of both countries in world nuclear market. At the same time, cooperation between Russia and Kazakhstan has reserves using of these reserves can not only assist for stable economical development of both countries, but also create in long-run terms a solid background for more efficient cooperation and solving the problems in field of international energy security by a creating effective nuclear-fuel component of energy base of civilization ([http:// archive.kremlin.ru](http://archive.kremlin.ru), 2011).

Russia obtains with the full cycle of nuclear industry activities almost 16 percent of the electricity producing in Russia,

40 percent of world uranium enrichment, 17 percent of world nuclear fuel producing, 16% of NPP construction and only 8 percent of uranium mining this disproportion can play a bad role for Russia in future. The Republic of Kazakhstan is on the way of creating full nuclear industry cycle; however, Kazakhstan takes the first plays in uranium mining, but the problem for Kazakhstan is that almost all transportation system connected with Russia and there are two ways to solve it. First is to collaborate with Russia and use their transportation system or to find a new way. The situation is solved now by the way of cooperation.

In October 2006, Russia and Kazakhstan have set up the three joint companies in nuclear energy sector: JC Nuclear station, JC Akbastau for exploring on the territory of Kazakhstan Zarechnoe deposit and areas on the Budenovskoe deposit, JC Centre of uranium enrichment. In May 2007, Kazakhstan took participation in Russian initiative of creating International Centre of Uranium Enrichment (ICUE) in Angarsk and gets the 10% of shares. The ICUE project is attractive for Kazakhstan. This project allows getting enriched uranium without critical access from the point of not sharing of the technologies. Regarding long-terms plans of Kazakhstan in participation of construction NPPs and nuclear energy blocks, the demand in enriched uranium will increase, and that factor makes the ICUE project in Angarsk very attractive. Such an active collaboration between Kazakhstan and Russia can be observed as an attempt to integrate the companies of nuclear sector of both countries (Ibragimova G., 2010).

Kazakhstan and Russia have overcome the period of crisis and now step on the way of developing and enhancing their power, and as both countries have the long time common history, nuclear system has the same roots, and the path of collaboration seems to be more real than with other

countries.

Currently, positions of Russia in Kazakhstan are remaining sufficiently solid. Economical relations between two countries rapidly developing, both states involved in international and regional organizations as EurASeC, CSTO, and SCO. In nuclear industry the links are mostly strong because a lot of Kazakhstan's scientists have Russian roots, or have studied in Russian universities. The systems of scientific personnel exchange or education exchange, training in Russian are regulated well (Schmidke, 2006).

Russia's moves to enhance the integration of the Russian and Kazakh economies along the whole nuclear production chain are a crucial step in its quest to resolve its own energy problems. The Kazakh economy will benefit similarly from cooperation with Russia. One further benefit of this cooperation between Russia and Kazakhstan in the construction and operation of a nuclear power plant is that it may lead to a breakthrough in the machine building industry (Vinokurov E., 2008).

Obviously, the nuclear industry has a strategic meaning for each economy and Kazakhstan with Russia try to pay a great attention for this sphere. Kazakhstan is trying to diversify their relations and to invest and find investors for new projects. At the same time steps for diversification of nuclear fuel cycle was made by Kazakhstan and enhancing the volume of uranium mining almost 20000 tons in this year.

Kazatomprom, Kazakhstan's state-owned uranium company plans to invest about \$800 million with Russian and Japanese partners to mine rare-earth metals as supplies from China shrink (<http://www.bloomberg.com>, 2011).

In December 2010, the Uranium Holding ARMZ closed the deal aimed at consolidation of the controlling stock of the Canadian Uranium One Inc. At present, ARMZ owns 492,217,929 common

shares of Uranium One, or 51.4% of all circulated shares of the Canadian company. ARMZ paid for the package with 50% of shares of JSC JV Akbastau, 49.7% of shares of JSC JV Zarechnoye, and US\$610 m in cash. (<http://www.rosatom.ru>, 2011).

The Russian-Turkish intergovernmental agreement concerning construction of a nuclear power plant near the Mediterranean seaport Mersin was signed during Russian President Dmitry Medvedev's visit to Turkey on May 12, 2010, in Ankara. The project provides for construction of four nuclear power units (VVER-1200 reactors) of 1.2 GWt capacities each to the Russian project AES-2006. (<http://www.rosatom.ru>, 2011).

After the '90s, Russia lost its positions in Central Asia and the great chain of nuclear industry companies, factories which were unified under the Minsredmash were separated from each other. Each country have chosen their way, Kazakhstan have implemented the policy of multi-vector policy by maneuvering between all main powers. And only in the late '90s Russia tried to re-establish relations with Kazakhstan in a new stage, after that period the role of Russia in Kazakhstan economy become more evident. Nevertheless, other powers as USA have a strong impact on Kazakhstan. China has also strengthened and spread its influence in Kazakhstan.

National nuclear power company Kazatomprom JSC will buy shares of the Russia's largest enrichment facility in Novouralsk. A corresponding agreement was signed on Wednesday in Astana. The document is a part of Russian-Kazakh program on cooperation in the field of peaceful uses of nuclear energy. According to Head of Rosatom, Sergey Kirienko, a big commercial joint venture on uranium enrichment is planned to start to operate on Russian territory at the end of the year (<http://www.kazinform.kz>, 2011).

Kazakhstan was the first country to decide to participate in the IUEC project, which concluded a related agreement with Russia in 2007 (www.rosatom.ru, 2011).

Kazakhstan and Russia have a long common history and the latest rumors of future integration and the intensifying cooperation between the two states are not a surprising process. More evidently it seems in nuclear industry as heritage for both countries was given by USSR, the whole system was a unique and only collapse of the bases break off this connection. The core of industries is the unique. This helps both companies and countries in cooperation and understanding of each other. Nowadays it is seems that companies improve the quality of the relation that now projects and joint companies not only focused on mining of uranium. It became possible after improving and growing of both organizations, the funds and organization allow investing and participating in high-budget projects. Kazakhstan now offers Russia full value cooperation. As for Rosatom, after reconstruction they also become capable not to solve the problems of existence but to direct their power to innovations and growth. Nevertheless and fortunately Kazakhstan and Russia do not decrease the number of their international relations and even increase the number of projects. The international cooperation of both countries helped them to get this level of development and to neglect this influence will be fatal. In order to cooperate with each other and to offer their products for others the cooperation and using all opportunities of the market is required, which is not possible without interrelations with all players. Regarding positions of the industry, the analysis of the nuclear complexes of both countries shows that the companies step by step realize their strategies. It is early to say that companies overcome all predicaments and Kazatomprom with Rosatom realized all their projects and fully done their pro-

grams, nonetheless, the main problem of Russia in uranium mining Rosatom has been solved, mostly by the help of joint companies with Kazatomprom and the buying the controlling interest in Uranium one, remedy for the problems of Kazatomprom as to find the clients for their uranium and realize all nuclear fuel cycle production were found.

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INTRODUCTION OF INNOVATIVE-INVESTMENT APPROACHES TO THE INDUSTRY OF KAZAKHSTAN

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Metallurgy of Kazakhstan is characterized by the presence of a rich mineral and raw-material base having considerable potential, not only within the limits of the country, but also on a global scale. For stocks of many metal ores (chrome, manganese, iron ore, other) the country is included into ten leading countries, as well as for stocks of coal. Security of the metallurgical enterprises by the specified raw materials makes at current capacity from 50 till 300 years. Ore deposits are basically complex, i.e. containing some kinds of metals in ore that demands application of various technologies of extraction, enrichment and processing. All it is the basic precondition of growth of branch on which development other factors work also: rather developed infrastructure, professional shots, property complexes and fixed capital of metallurgical appointment.

The development of metallurgical branch of the republic of Kazakhstan from the moment of the country's independence reception proceeded differently, but catastrophic recessions (several times) both in extraction, and in processing wasn't observed. It is sufficient enough to analyze dynamics of an index of physical volume of metallurgical production of republic enough. For Kazakhstan within the years 1991-2010 in percentage by the last 1991-1994 reduction of volumes of extraction and manufacture because of rupture of economic communications within the limits of the USSR and the economic destabilization caused by it is characteristic. The period of time from the years 1995 till 2000 are distinguished by resuscitation of branch and return lost after reception of independence of positions. Within the years 2000 and

2004 shows branch decreasing, but steady rates of increase. Up to 2010 the level of production remains almost constant, each next year slightly above or below previous, on the average exceeding indicators of the previous period.

The titanium industry of the Republic Kazakhstan is presented by the unique enterprise – Joint-Stock company «Ust-Kamenogorsk Titanium and Magnesium plant» (further, JSC “UK TMP”) which manufacture (basically reception of a titanic sponge) is based till now on imported from abroad raw materials. Joint JSC “UK TMP” unlike two other similar industrial complexes of the CIS – in Ukraine (Zaporozhye – ZTMP) and in Russia (Bereznikovsky – BTMP) – only in 2001 has begun manufacture of titanic slag and basically imports it from the countries of near and far abroad.

At the same time the production of JSC “UK TMP” was guided completely by imported raw materials from Ukraine and Russia, and the choice of a site of this power-intensive enterprise has been defined, first of all, proceeding from power security and as a whole the developed infrastructure of region. The issue of creation owns raw-material base of the titanic industry in Kazakhstan practically was not given any attention.

Research of problems of development of manufacture of titanium and magnesium production in JSC “UKTMP” testifies that in view of a number of the objective reasons, conditions and factors (complication of public requirements, fast updating of innovations, etc.) irrespective of degree of perfection of a control system of industrial complex the additional special

mechanism of influence on innovative process is necessary. It means that in industrial complex manufacture two interconnected control systems of innovative process function.

The control system of innovative processes considerably differs from management of other social and economic processes by objectives, the maintenance, functions, principles and methods. The management purposes innovative process, are:

- Continuous updating of assortment and the nomenclature of let out production, and also the applied techniques, technology, methods of the

organization of manufacture;

- The further development of scientific and scientific and technical potential of the company, creation of a scientific reserve.

Today share JSC “UKTMP” in the world market of the titan makes about 14%, thus half of import of the spongy titan in the market of the USA is necessary on the Kazakhstan metal.

World demand for titanium rolled products during the period till 2017, under the forecast of Japanese company "Chori", will be characterized by the following data (table 1).

Table 1 – World demand on titanium rolled products, thousands tenge

Region	2002	2007	2012	2017
Total	60	96	154	237
USA	23	33	50	74
Europe	15	20,5	31	44
China	6	10	20	40
Japan	7,3	14,5	23	37
Other Asian countries	5,7	12,5	20	26
Russia	3	6	10	16

Apparently from table 1, world demand for titanium rolled production for the analyzed period of time will be 3,9 times higher.

Now the spongy titan is certificated by all manufacturers of the world’s aircraft engines («General Electric», «Pratt and Whitney», "Rolls-Royce", "Snekma" etc.). Besides, manufacturing and quality system are certificated under last versions ISO-2000, special air and space standard AS 9100 and under the international standards of ecological activity ISO 14001 and labor safeties OHSAS 18001.

Research of the world market of demand on titanium production of JSC “UK TMP” testifies that about 40% of production is claimed in the USA, 20% – in Europe, 20% – in the Asian countries and 10% – in the CIS countries, i.e. almost

all goes for export. Proceeding from it the mixed transportations of the Kazakhstan export cargoes with use of transport potential of Kazakhstan, are rather important today.

Now the area of the mixed transportations of Kazakhstan export cargoes is in a transition state. The railway tries to order process of export transportations by their planning, to reach according to the lights, timely carrying out of loading and unloading of a railway rolling stock.

The innovative cycle in the developed raw-material base of JSC “UK TMP” includes following links: a science-manufacture-consumption. They possess relative independence.

The science in JSC “UKTMP” system is represented by fundamental,

search and applied researches, and also technical workings out at which there is an element of creativity, search new (quite often essentially new) scientific and technical decisions.

Studying of materials of a mineral and raw-material base of Kazakhstan has shown that stocks on deposits Obuhovsky, Shokash and Satpaevsky (former Bektemir) demand carrying out economic and geological prospecting works. Transition to local raw materials at the expense of development Shokashsky (the Aktyubinsk area), Obuhovsky (Akmolinsky area) and Satpaevsky (the East Kazakhstan area) deposits will allow lowering the cost price of production at JSC “UKTMP”.

At the same time the Satpaevsky deposit is the most perspective for joint-stock company JSC “UKTMP” both on a territorial arrangement and on volumes of stocks and concentration of metals in ore, therefore efforts of the enterprise are focused on this deposit.

All it allows the grounds for input of the Satpaevsky deposit in the project coordinated and confirmed when due hereunder «Trial site» which problem consists in working off of technology of extraction and processing of ilmenite ores

and preparation of the feasibility report on perspective expansion of the enterprise.

Research of problems of a choice of the optimum scheme of transportation of raw materials from the Satpaevsky mineral deposit, in particular ilmenite ore sand, will allow to reduce import of an ilmenite concentrate practically twice depending on volumes of output.

In view of this fact the schemes of transporting ilmenite concentrate from the Satpaevsky deposit on concentrating factory of JSC “UKTMP” are analysed.

In table 2 the transport infrastructure of the East Kazakhstan area is presented.

Apparently from table 2, crucial importance at a choice of the scheme of transportation a total cost of transportation on delivery has quantities of raw materials. Besides, each scheme of transportation should submit to rules of transportation of cargoes on the involved types of transport and contains a certain complex of the logistical operations also influencing expenses. Observance of rules of transportation, for example, the minimum transit norms, leads to change of frequency of deliveries of raw materials and consequently, influences the size of industrial stocks.

Table 2 – Conditions of transporting by various means of transportation

Conditions of transporting	Motor transport	Railway transportation	River Transport
The minimum volume, tones	Any	60	3000
Duration of starting-finishing operations, hours	0,1-0,5	24	24
Additional expenses for supply and export	yes	yes	yes

The transport system (automobile, river and rail-road types of transport) East Kazakhstan area with a view of optimization of the scheme of transportation of raw materials from the Satpaevsky deposit is investigated. Economic calculations confirm what most effectively to transport raw

materials from the Satpaevsky deposit on concentrating industrial complex of JSC “UK TMP” motor transport. It allows reducing delivery of cargoes till 1 day instead of 3–5 days river or by rail.

Economic benefit of realization of the offered actions allows reducing deliv-

ery of raw materials from a deposit to concentrating industrial complex of JSC “UK TMP” motor transport to 7–10% in comparison with river and by rail. Annual economic benefit will make more than half billion tenge. However the above-stated projects demand attraction of investments.

For potential investors of Kazakhstan this factor is, of course, important, but not the crucial one. Partners are involved with such key factors, as political stability and successes in transformation of economic way. Work with investors is one of the primary goals of the Program of the forced industrially-innovative development developed on the instructions of the President of the country starting in last year. Thus the accent becomes on attraction of direct investments in creation export-oriented manufactures aimed at output with high added cost. The government for this purpose creates all necessary conditions. The majority of partners and independent experts share opinion that among all CIS countries in Kazakhstan an optimum investment climate.

Arguments in protection of the given thesis are:

First, Kazakhstan has the favorable geopolitical position giving to investors the consumer market almost in half-billion the person (the Central Asia, the Peoples Republic of China and the Russian Federation). Besides, within the limits of the created Customs union to Kazakhstan, Russia and Belarus the market in capacity in 170 million persons opens. And this circumstance creates the big possibilities and prospects for the foreign companies.

Secondly, the considerable role is played by presence of rich mineral resources. Kazakhstan is on the 9th place in the world on oil stocks, on 8th – on coal and molybdenum stocks, on 5th – on stocks of iron ore, on 3rd – on zinc stocks, on 2nd – on uranium stocks, on 1st place – on chrome stocks.

And at last, an important role the

business climate of the country supported by the favorable investment legislation, attractive measures of support of investments, and also economic and political stability plays. Creation of comfortable conditions for investors is a priority of the Government and the Ministry of the industry and new technologies in particular.

According to the instructions of Kazakhstan’s President state system measures and programs of support of the business, reflected in four complex programs are developed: «Investor-2020», "Productivity-2020", "Export-2020" and «Business Road map-2020». In these documents various tools of stimulation are provided: from granting of service support to exporters and investors before support by financial and fiscal measures.

The state is ready to offer the foreign investors realizing projects in priority branches of economy, the full spectrum of investment support is a participation in an authorized capital stock, granting of extra financing, leasing, use of possibilities, use of investment preferences, analytical maintenance, export support.

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ON THE NECESSITY OF THE DEVELOPMENT OF WETLANDS LEGISLATION FOR THE REPUBLIC OF KAZAKHSTAN

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Today wetlands are the most vulnerable ecosystems of our planet. They are running the threat of complete destruction. “This is caused by ongoing drainage, transformation, and pollution of their resources. Wetlands are subjected to intensive economic use (water withdrawal for irrigation, for everyday and industrial necessities; extraction of peat and biological resources). Rivers and lakes are subjected to massive pollution by industrial and agricultural waste waters.

Despite the fact that our country is situated in the arid part of Eurasia, the most part of the natural ecosystems is presented by wetland complexes from Caspian Sea and large lake systems to thousands of fresh and salt lakes on vast steppes. Two world flyways (Central-Asian – Indian and Siberian – East – African) meet at the Kazakhstani part of the wetlands of the Eurasian continent. Kazakhstan is the international haven at the flyways of migrating birds. The wetlands of Kazakhstan are the nesting and feeding places for the birds from West Europe, South-East Asia, Africa, and the Arctic. Kazakhstan has the most numerous populations of waterfowl in Asia – more than 130 species. Every six months more than 50 million birds migrate across Kazakhstan, twenty percent of them nest on the territory of Kazakhstan” [1, p. 3].

One of the main legal instruments directed at wetlands conservation is the Convention on Wetlands of International Importance especially as Waterfowl Habitat signed in Ramsar in 1971. Today more than 150 countries have joined the convention. The Republic of Kazakhstan also ratified the international document.

Before analyzing the wetland legislation of the Republic of Kazakhstan, it is

necessary to define the notion and significance of wetlands as objects of nature-conservative relations. Article 1 of the Ramsar Convention gives the following definition - “wetlands are areas of marsh, fen, peat-land or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres”. As we see, wetlands include a wide range of water bodies which are difficult to define and distinguish. It is also impossible when analyzing the Water Code of the Republic of Kazakhstan. The Water Code is the main document in the sphere of water use and conservation. Similarly to the Ramsar Convention Article 1 of the Water Code of the Republic of Kazakhstan defines the “wetlands” without differentiating between “marsh”, “fen”, “peat-land”, etc.

It also should be mentioned that according to the international and national legislators the definition “wetlands” includes only the water bodies that could be considered as such without pointing out that they promote biodiversity, carry out other functions and are of preferential protection. Complex interaction of such main components as soil, water, fauna and flora is realized only due to wetlands.

“The important ecological functions of wetlands are the following: they accumulate and store fresh water; they regulate the surface flow and interflow; they keep up the groundwater level; they clear water and deter contaminant; they restore oxygen to the atmosphere; they exclude and accumulate carbon; they stabilize climatic conditions especially precipitation and temperature; they deter erosion and stabilize the position of banks and shores; they

keep up biodiversity; they are the habitat of different species of plants and animals including scarce and important. The importance of wetlands for people to a considerable degree results from their ecological significance. Human beings depend on the conditions of wetlands as they are the main sources of fresh and commercially pure water supply; they determine the productivity of agricultural lands keeping up the groundwater level; they are the basis of some kinds of animal breeding (poultry farming, fur farming, haying); they supply farms with fuel, building materials, and fertilizers (wood, reed, and peat); they are the source of raw materials for different trades (fishery, fowling, and berrying); they also give opportunities for tourism and recreational use” [2].

Thereby, it is necessary to conclude that a wide range of functions and diversity of wetlands requires their gradation according to their purposes at the level of the norms of the main water legislative act. It is also necessary to define the notions and legal status of the wetland categories. The legislator is recommended to take into account the fact that wetlands may be divided according to their geographical position into marine, lake, river, and marsh lands; according to the mode of formation they may be divided into natural or artificial; according to the regulation level they may be divided into international, national or local; according to the environmental and legal status they may be divided into the natural areas of preferential protection (further NAPP) or not relating to such. According to the feeding type they are subdivided into high (precipitation), lower (from soil), and transitional; according to macro-relief they are divided into valley bogs, river marshes, hill-slope and watershed lands; according to micro-relief – into hilly, plain, and domed bogs. The list of wetlands could be continued but it should be taken into consideration that their diversity mediates and

complicates the meaning of legal regulation of wetlands conservation and use filling the wetland legislation with the norms of land law, mining legislation, and faunistic law. So, being the form of surface flow, bogs are connected to ground waters. They may arise either in the areas of ground waters outlet or in the forest cutting-downs. The fact determines that they belong to different land categories: either to water or forest resources.

The practical side of the complex tangle of wetlands norms is the fact that when getting the right to use wetlands of forest resources a water consumer has to get a license for peat extraction, use of water and forest resources from the state bodies governing the land, water, forest, and mineral resources. It is necessary to mention the suggestion of Soviet, particularly Byelorussian lawyers, about the separation of a category “peat resources”. The suggestion has been realized neither in the Republic of Kazakhstan nor in the Russian Federation nor in the Republic of Belarus. Peat Bog Law holds in Sweden.

The mechanism of state administration is of great importance for wetlands conservation. Its functional basis is ensured by a number of legislative and by-law acts approved by different state bodies. These acts are also to be reviewed. Multifunctional character of wetlands determines the necessity of complex structure of state bodies governing these territories. In Kazakhstan the system of state bodies governing wetlands includes the Ministry of Agriculture, the Ministry of Environment Protection, the Ministry of Finance, the Ministry of Education and Science, the Ministry of Transport and Communications, Land Management Agency, etc. “The authorities of different state bodies concerning water sector often duplicate and supplement each other. As a result, the full responsibility of a particular state body for taking decisions concerning water sector is reduced, concrete operations

are not realized or realized with delay. Departmental interests do not favor the choice of optimal decision and the mutual solution of the problems. They restrict the exchange of information and lead to inter-departmental tension” [3, p. 89].

All above-mentioned points result the conclusion that state bodies have to take legal or organizational decisions concerning wetlands in concord. In other words, the principle of close coordination must be the basis of the activity of state bodies governing wetlands. At the same time the activities of these state bodies must be open to public and closely connected to social organizations, associations and unions.

Thereupon, the question of state power transparency, i.e. accountability of state authorities to public, the participation of citizens in the democratic process, and joint decision-making, is of great relevance. When investigating the problem of informational rights as an element of public administration transparency Kazakhstani lawyer Ibragimov A.T. gives an example of the US executive authorities' activity transparency: “in the USA there were adopted the laws on federal and local meetings open to public - “sunshine laws”.

In 1976 the Congress of the USA adopted the law “Government in the Sunshine Act”. According to it the meetings of federal executive agencies must be open to public. According to the law at the agency meeting there must be a quorum - the minimum number of officials that must be present at any of its meetings to make the proceedings of that meeting valid. According to the general statutory wording, the officials have no right “to try the cases and take the decisions in any form other than at open meetings” and further, “any part of the meeting is to be open to public” [4, p. 30].

It is thought that the US foreign experience must be taken into account by national legislator in terms of strengthen-

ing the transparency of state bodies' activities when taking decisions in the sphere of wetlands relations regulation and in the sphere of environment protection. At the same time the bodies of state power have to inform the population about the condition and planned activity of the wetlands before taking the decision about any activities in wetland territories.

Analyzing main functions of state administration concerning wetlands the water legislator has to pay attention to the fact that planning the activity relating to wetlands use and conservation is to be based on the watershed principle - taking nature-conservative measures in the whole territory of the drainage area as wetlands get the most part of substances and energy from the whole area of it. Therefore, the legislator is recommended to work out the Wetlands Management Planning Procedure. At present the Rules of Nature Conservative Organization Management Plan Development (approved by the Order of Acting Chairman of Forestry and Hunting Committee of the Ministry of Agriculture of the Republic of Kazakhstan dated July 17, 2007) hold in Kazakhstan. At the same time “since 2006 the Wetlands Conservation Project has prepared the following documents – the Korgalzhynskiy Zapovednik Management Plan for 2007-2011 and the Procedure of the Kazakhstan NAPP Management Plan Development using foreign countries experience (Germany, India, China, Slovakia, the USA, Russia, and SAR). But despite the effectiveness of NAPP Management Plans there are still some problems in many countries and in Kazakhstan with the development and financing of the measures included in the Plan” [5].

It also should be mentioned that the Rules developed in accordance with the Law of the Republic of Kazakhstan “On Natural Areas of Preferential Protection” cover the wetlands having the status of NAPP. In Kazakhstan among 7 wetland

territories, included in the List of Wetlands, 2 wetland territories in Kostanay Region – Koibagar-Tyntyugurskaya and Kulykol-Taldykolskaya lake systems – do not have the status of NAPP. Respectively, the items of the above-mentioned subordinate act do not cover these territories. This is the oversight of the legislator.

As a result, it is supremely important to mention the necessity to work out and adopt the legislative act “On the Use and Conservation of Wetlands”. The given act might give a clear definition to the notion and types of the wetlands situated on the territory of the Republic of Kazakhstan. It also might incorporate the norms relating to the correlation between the water, land, mining, forest, international legislation and the norms of the use and conservation of wetlands.

Similarly to the Environmental Code of the Republic of Kazakhstan prescribing in Article 5 the principles of environmental legislation, the principles of legislation on conservation and use of such territories might be incorporated in the future act. On the whole, “the principles are of conceptual importance for the determination of priorities, tendencies of specific law branches development and for the understanding of the tendencies and nature of legal processes” [6, p. 9]. These principles have to ensure that the relations in the sphere of wetlands conservation and use are systematically regulated, i.e. all norms and institutions relating to the legislation, state administration, rights of property and use, economic mechanism, responsibility for the transgression of the legislation on wetlands, etc. have to regulate this sphere of legal relationship fully, logically, and structurally tied together.

Let us try to mark out the number of legislation principles concretizing our idea of the norms to be included in the future act on wetlands. The principle of sustainable use of wetlands is to be put atop. The sustainable development principle is

known to be conceptually basic not only for the national but also for the international environmental law. The Seventh Goal of the UN Millennium Development Goals is to “ensure environmental sustainability of our planet and different countries. The targets and indicators of the Goal show the necessity to solve two main problems for sustainable development: to reduce the environment impact and the depletion of resources; to improve environmental conditions for human development and to reduce environmental threats for human safety, health and living” [7, p. 40].

In the “Kazakhstan’s Strategy of Joining the World’s 50 Most Competitive Countries: Kazakhstan is on the Threshold of a Major Breakthrough in Its Development” the Head of the state puts the task to have created by 2010 the main environmental standards of sustainable development of the society. To reach the goal the Decree of the President of the Republic of Kazakhstan # 216 dated November 14, 2006 approved the Conception of Kazakhstan’s Transition to Sustainable Development (further Conception). The Conception determines the vision of principles, goal, targets, and mechanisms of sustainable development in all spheres. The economic, environmental, social, and political factors of development are to be considered as an integrated process aimed at the increase of life quality in Kazakhstan.

According to Article 5 of the Environmental Code of the Republic of Kazakhstan (2007) sustainable development of the Republic of Kazakhstan is the fundamental principle of current environmental legislation of the Republic of Kazakhstan.

Article 4 of the head normative act of the Republic of Kazakhstan regulating relations in the sphere of environment conservation, use and restoration of natural resources in the exercise of economic and other activities describes environ-

mental bases of the sustainable development of the Republic of Kazakhstan. Here belong: ensure healthy and satisfactory environment; conserve environment and biodiversity; ensure and realize the right of the Republic of Kazakhstan to exploit natural resources; fair satisfy the needs of the current and future generations; develop sustainable models of production and consumption; conform environment norms to the conditions of social and economic development taking into account the environmental conditions; observe the right to environmental information access and public participation in solving the problems of environment conservation and sustainable development; ensure publicity to the measures taken to conserve environment; global partnership for the purpose of conservation and restoration of healthy state and integrity of the Earth's ecosystem; ensure the development of international legislation relating to the responsibility for environmental damage; deter and avert the transfer to other countries of any kinds of activities and substances that may cause a serious damage, and take the precautionary measures in cases of serious or irreversible damage to the environment.

The conception of sustainable development is reflected in a number of natural resources acts of the Republic of Kazakhstan. For example, according to Article 3 of the Forest Code of the Republic of Kazakhstan forest legislation is based on the forest sustainable development principle (sustainable increase of forests in the territory of the Republic of Kazakhstan). According to the part 2.3 of Article 3 of the Water Code of the Republic of Kazakhstan one of the targets of water legislation is to ensure legal basis for the development of sustainable water consumption and water resources conservation.

In spite of the wide substantial aspect of main trends of sustainable development, the environmental legislation of the Republic of Kazakhstan does not have

the notion "sustainable development". According to Professor Tonkopyi M.S., Doctor of Economy, "there are 60 definitions to the term "sustainable development" in modern literature" [8, p .5].

In the opinion of Shesteryuk A.S., the discord of definitions could be of no importance if it did not result another problem. The lack of clear differentiation between the notions "stability", "steadiness", "balance", "sustainable development" and clear gradation of their conditions (i.e. static and dynamic stability, structural stability, etc.) does not allow us to ascertain the detailed criteria of stability and the methods of analysis and evaluation. Terminological disorder puts obstacles in the way of creating general picture of the state associated with the lack of crisis. Instability and non-state are turned out to be ascertained more clear than their alternatives [9, p.22].

Coming back to the subject of our research it is necessary to point out that under the conditions of degradation, dehydration and littering of the wetlands the principle of sustainable development of these territories is of great importance. As we have already mentioned, the given areas form the climate and environment of the region and fulfill economic and social functions. The main condition of the wetlands sustainable development is the status of preferential protection irrespective of the List of the Ramsar Convention. The boundaries of NAPP must be broadened on the basis of the natural and functional evaluation of the territories.

Wetlands management is also to be based on the principle of appropriate combination of conservative measures and rational use of NAPP with the positive human attitude to wetlands. Unfortunately, the wetlands in Kazakhstan cannot be the pride of the country as opposed to the wetlands in Ireland, Scotland, and Canada. "The population, the experts, and the officials who make decisions, do not pay

much attention to the wetlands as economic and esthetic resources. They have negative emotions concerning them. And the reason is the lack of information” [10]. That’s why it is necessary to active propagandizing the knowledge of wetlands functions relating to human beings and environment.

Speaking the scientific language, the society faces the problem of environmental legal awareness formation. Its elements are ecological and legal upbringing and education in the sphere of nature management and environment conservation. The content of ecological upbringing and education is to be filled with the notions of wetlands, their types, importance, the reasons of their degradation, and the means of their organizational and legal protection. It is necessary to take into account the conception of different levels of environmental legal awareness – state and everyday ones. “The most important level of environmental legal awareness is the state level, or to be more precise, the activities of the authorized bodies on lawmaking and its application. The state level of environmental legal awareness is greatly connected to the professional level. That is why it is necessary to increase professionalism and specialization when law-making and law-applying in the sphere of environment relations, to struggle against legal and environmental ignorance, legal nihilism...” [11, p. 70].

Kazakhstan legislation does not leave out these important problems. Thus, Article 184 of the Environmental Code of the Republic of Kazakhstan provides for the priority tendencies of government assistance of environmental education: improvement of academic and scientific bases of environmental education; training of skilled specialists on the sphere of environment conservation; availability of teaching aids on environmental education; assistance to the development of organizations realizing the programs and measures

on environmental education in the society and in the family. However, Russian, Byelorussian, and Kazakhstan environmental and legal norms “to some extent have a definite-declarative character and do not contain the logical and harmonious system of the activity in the sphere of environmental upbringing and education. In connection with it, it is necessary to order and improve the normative-legal basis regulating environmental and educational relations” [12, p.48-49]. Concerning the subject of our research, it is recommended to include the terms of goal, targets, levels, structure, and content of the environmental legal awareness and its triune elements into the future law on wetlands.

The list of principles of wetlands conservation and use legislation may be continued with the research of state administration functions and the economic mechanism of regulation of the relations on the use of the given territories, the responsibility for the legislation infringement, international cooperation in the sphere of environment conservation, etc.

The main point is that the problem of improving the norms on wetlands conservation is connected to the unsolved problems of the environment and nature resources legislation of the Republic of Kazakhstan. Particularly, the Water Code of the Republic of Kazakhstan defining the category of glaciers and wetlands in Article 12 needs the amendments regulating the legal regime either the wetlands or the glaciers. The current complex mechanism of government control of environment conservation and state administration of nature management is characterized by a weak internal unity, the closeness for public and the lack of coordination when making decisions. In its turn the legislator is required to review the functions of nature conservation bodies of government control and to work out the effective mechanism of their interaction. The problem of enlarging the number of NAPP is still rele-

vant: nowadays the area of NAPP in Kazakhstan is a little more than 8 % while in the world their area is 10-12 %. Finally, along with the necessity to work out and adopt the specific Law of the Republic of Kazakhstan “On the Conservation and Use of the Wetlands” there is the need to improve the norms of the environmental and legal culture and awareness of the population.

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MODERNIZATION AND INCREASING THE COMPETITIVENESS OF THE TITANIUM-MAGNESIUM INDUSTRY

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The joint-stock company “Ust-Kamenogorsk Titanium-Magnesium plant” can be considered an industrial complex (JSC “UK TMP”) that reflects the pace of industrialization of independent Kazakhstan. After the disintegration of the USSR its biography has begun practi-

cally with a blank page. At that time the enterprise was integrated with accessory manufacturers in Russia and Ukraine and it found itself without raw materials and without a market for its products. Today, however, the industrial complex makes more than 14% of the world’s volume of

the titanium. Over 17% of the metal that JSC "UK TMP" delivers is used in the international aerospace sphere.

When suppliers of raw materials – factories of Russia and Ukraine – remained abroad, the commodity market was oversaturated by warehouse stocks of titanium in state security reserves and military-industrial complexes, JSC "UK TMP" remained helpless. Their options become clear: either lie down and die or struggle for life as they could.

It took almost one and a half years to work out a program for the development of the titanium-magnesium industry of Kazakhstan. The program provided for the creation of a domestic raw-material base, raw materials processing in titanite slag, increase in individual capacity of the metallurgical equipment, certification under the international standards of production, and a reduction in technological pressure on ecology. It was necessary to organize some repartitions: reception of titanite slag, then titanite ingots and alloys and final products with a high added cost.

With that beginning, together with geologists, three deposits of raw material stocks in Kazakhstan have been confirmed. All three areas have made trial installations and have received the first party of an ilmenite concentrate. Then, construction of a manufacturing site for titanite slags took place. The President of Kazakhstan, Nursultan Nazarbayev, personally took part in its start. This is a factory of 64 hectares, consisting of 28 facilities. For the first time in Kazakhstan, ilmenite has been received, titanite slag has been processed, and the factory has passed certification under all requirements of international standards, including the certification by consumers – the aerospace companies.

The majority of technological processes were developed independently because there was no desire to share methods of operation with anybody in the world.

And when for the first time they presented to the world market their titanite sponge, its quality corresponded to international standards. It also became the main "admission" to the international certification.

The first stage of certification involved foreign firms in the years 1994-1995. More than ten auditor checks were conducted by space companies, having confirmed with certificates their satisfaction with the quality monitoring systems of the industrial complex production. In the year 2000 the industrial complex obtained the certificate of compliance of quality control system under the international standard ISO 9002, and in 2002 – the conformity certificate to the American space standard AS 9100.

Such famous companies as «Pratt and Whitney», «General Electric», "Snekma" became consumers of production of UK TMK. The industrial complex has turned out as the largest integrated manufacturer of titanite spongy.

Working with the consumer of the titanium is a difficult business which had a beginning, but has no end: it is constantly necessary to confirm its level of quality. It is a high enough lath and there is severe market competition. So to keep the quality at the necessary level is possible only by considerable efforts.

After the disintegration of the USSR, many Soviet instructions, specifications, and laws had become outdated and didn't answer the realities of the arising market economy. And then the President of Kazakhstan has published the whole block of decrees which have allowed the enterprises to rise faster from their knees.

Today in Kazakhstan bases of a mineral and raw-material base of titanite branch are already created: stocks of three deposits are reconnoitered and confirmed. It is Shokash in the Aktyubinsk area, Obuhovskiy in Akmolinsky and Satpaevskiy in Eastern Kazakhstan area. The additional

prospecting works spent by the Kazakhstan and Japanese geologists, have allowed increase reconnoitered on last of them stocks almost twice.

Since 2002 the ilmenite concentrate of the Satpaevsky deposit on metallurgical repartition of the enterprise has started to arrive. Thus, the problem put by the President of the country before a management of UK TMK, is executed – the Kazakhstan ilmenite concentrate for the first time has been received.

High level of the high technology technological processes developed and introduced at industrial complex is confirmed by award to group of workers of enterprise state of the award.

Modernization is the use of new approaches, assistance to innovative development and introduction of innovative thinking. To innovations give one of key roles in scale modernization which is connected with a diversification. These categories are inseparable from each other: the diversification sets a development direction, and modernization helps to create conditions for performance of tasks in view.

In the Messages of the President communication of modernization of social sphere with modernization of economic life of a society is shown. «We have created successfully working market economy and have started to live better», – Noursultan Nazarbayev underlines. So, following the results of 2010 the country has occupied 50 place in the international rating of national well-being, having outstripped thus all CIS countries. Since 1994 the size of a monthly nominal salary at us has grown in 45 times. For 10 years the share of the population with incomes below a living wage was reduced more than in 4 times.

For last decade expenses for education and public health services have grown almost in 10 times. The advanced innovative economy will steadily raise well-

being of the people. By the year 2016 Kazakhstan should enter into group of the countries with high level of the income from gross national product per capita not less than 15 000 dollars. For this purpose economy of the Republic of Kazakhstan will have annual growth not less than 7 %.

For years of formation of independence of Kazakhstan it is possible to allocate modernization of the first and second stages.

Modernization of the first stage has begun since 1991 and proceeded practically one and a half decades.

Since the year 2005 modernization of the second stage which assumes a principle of maximization of resources has begun. It first of all the maximum use of an energy potential of the country – extensive territory of Kazakhstan, rich minerals and social resources. For the short period of time in this direction it was possible to spend successful transformations to system of social and economic relations. National economy is characterized by achievement of macroeconomic stabilization and an exit on a trajectory of economic growth.

Since 1993 the volume of gross national product of Kazakhstan has increased almost in 12 times. Gross national product volume has per capita exceeded 9 thousand dollars. Kazakhstan is included into number 50 of the states on level of the international reserves. Together with actives of National fund they reach almost 63 billion dollars. Kazakhstan became the full participant of world economy. For 19 years in economy it is involved about 122 billion foreign investments.

System modernization assumes modernization of managing subjects – the enterprises which are dictated by those problems, as deterioration of fixed capital, a lack of the qualified personnel corresponding to new technical requirements are revealed. In vanguard of modernization there should be averages and small

enterprises, and also mainly power, oil refining and mountain-metallurgical enterprises that is especially actual for the East Kazakhstan area. The accepted program "Productivity-2020" is directed on the decision of specific targets on perfection of administrative technologies and modernization of operating and new manufactures. A vivid example of introduction of modern technologies is JSC "UK TMP".

The next stage of realization of development titanium-magnesium industry has begun a few years ago. It is the project on creation of repartition with higher added cost, allowing departing from a raw orientation: manufacture of titanic ingots and alloys. Project investment hasn't been stopped, despite known complexities because understood: who in days of crisis puts means in manufacture perfection that will rise on feet faster.

Capacity of new factory – 11 thousand tons in a year of ingots of double fusion. This project was included into a republican Card of industrialization. In the beginning of September, 2010 in the presence of the President of the country Noursultan Nazarbayev the factory is started in operation. It is a historical stage not only for the enterprise, but also for all Kazakhstan as the republic was included thereby into the annals of the world titanic industry, creating possibility of cooperation with the European and American enterprises for the further processing of ingots in finished articles.

Creation of joint venture with the French firm Aubert and Duval – the largest world supplier of metallurgical production became first signs of realization of this possibility.

On June 24th, 2011 companies EADS and UKAD, joint venture Aubert&Duval and JSC "UK TMP" signed the long-term agreement on delivery of titanic semifinished products for shod details and fixing products under the programs realized EADS, including for manu-

facture of planes Airbus. The given agreement signed in Paris on June, 24th, 2011 on avia-show by Lja Burzhe, provides delivery of titanic production of JSC "UK TMP" till 2022.

In addition to the Memorandum signed in 2010 of cooperation the new agreement is directed on creation of completely integrated system of delivery of the titan between companies Aubert&Duval, EADS and JSC "UK TMP", thus UKAD is responsible for processing of titanic ingots of UK TMK in semifinished products, and company Aubert&Duval is responsible for manufacturing of shod details which are necessary for manufacture of components of aircrafts.

Besides the given strategic agreement company EADS and JSC "UK TMP" have agreed about the conclusion of the new long-term agreement which will provide delivery of titanic raw materials in UKAD, and also to other suppliers EADS till 2022. Company EADS is interested in effective work of new factory on manufacture of titanic ingots and alloys on JSC "UK TMP". Signing of these agreements confirms increasing importance of UK TMK as the key supplier of titanic raw materials for all companies of group EADS.

Titanic alloys are widely used for manufacture of planes owing to their smaller density, high durability and anti-corrosive properties.

Thus, the development of titanium industry was realized today.

That is everything that the Head of the state on vectors of development of the domestic industry offers, the industrial complex carries out in practice. In the end of the last year JSC "UK TMP" became the winner of the special award of the Head of the state in a nomination «Industrial break» at national-wide competition. This award became worthy end of the long-term program "The Titan" who developed and has been carried out under the

aegis of the President.

On small in scales of the country JSC "UK TMP" is obvious a joint-stock company example that the purpose of the strategic program "Kazakhstan-2030" – is included into number 50 of the most developed states of the world – is quite feasible, if each of us puts knowledge, will and work.

Despite promising prospects of branch, metallurgy of Kazakhstan experiences serious difficulties and can face a number of problems. Some branches prevail manufactures of low repartition, manufacture with high repartition and as result, the high added cost are absent. At almost full export-oriented metallurgy such state of affairs, according to experts, leads to short-reception by the budget of the country of means, a commodity and trading disbalance, absence of employment and, as consequence, professional growth of shots in more high technology branches.

Causes alarm and structure of the property of the enterprises. The most part of the companies of branch is in a legislative field of the country-registration and a foreign share platform that means absence of the long-term plans connected with Kazakhstan, and solicitous attitude to its labor, natural and other resources. Leaders of branch quite often lobby favourable innovative programs (for example, orientation on "base" metals). Such consumer relation leads to that active dredging only rich layers of ores is made. And it can quickly settle stocks and leads to low integrated approach of extraction of minerals. Investments in raw-material base reproduction are far from norms.

Investments into development of technologies on reduction of losses of accompanying metals in sailings aren't made, volumes of a technologic waste continue to grow (are estimated for today in 25 billion tons) and occupy the huge areas. Investments into building of processing

manufactures also are carried out reluctantly, frequently as the compromise between the Government and the company in exchange for «indulgences and indulgences», and never at the expense of own means (positive influence on structure of the capital of the financial lever here isn't discussed).

Reinnovation and modernization of fixed capital passes in a format of slight repairs. And they are spent only after property complexes come to full unfitness. Reduction of domain manufacture and transition to electrometallurgy isn't observed. And this with the fact that the majority of industrial complexes is created during the Soviet period and is technologically obsolete.

Not the smaller alarm is caused by an educational level and preparations of special and administrative shots in the country. Top-managers as leaders of branch, and small enterprises of a steel or the veterans of the branch who has "got" in the inheritance to new proprietors together with factories, or representatives of proprietors who sometimes understand both manufacture a little, and in management and have accurately definite purposes – to squeeze out of factories as much as possible in the short-term period.

Areas, in which metallurgical industrial complexes and extracting manufactures are located, became for a long time areas of ecological disasters as metallurgical manufacture is the extremely dangerous and toxic. Thus not all companies have intentions to invest capitals in the technologies raising safety, and prefer to pay penalties which are incommensurably small in comparison with ecological know-how. And provided that ecological standards and norms considerably concede it in Kazakhstan to the European.

Undoubtedly, in branch there are companies as, for example, SAT which "are adhered" to Kazakhstan, are opened and transparent, conduct the thought over,

complex, long-term policy of investment in production with the high added cost, support and develop personnel potential of branch. Other company of branch – "Kazzink" – tries to introduce actively expensive technologies on increase in level of ecological safety, but remains are information closed, with the majority share belonging to the foreign investor. There are also other examples, but they, unfortunately, are individual and aren't the standard practice.

It is necessary to notice that decisions offered by many experts or are far from a reality, or aren't stimulated with supervising bodies. However all are uniform in opinion that it is necessary to increase the researches directed on replacement of old technologies of extraction, enrichment and processing, to conduct system geological researches and development, to create manufactures on complex extraction of a material and working off of a waste, to establish quotas on remaining parts of metal made in the country for development of research-and-production business are valuable and useful to branch. But ways and preconditions for their realization aren't present because all it is in opposite from interests of the companies to the party.

Today more than ever it is required to develop the rational policy of branch reflecting balance between today's incomes and tomorrow's benefits, in a complex to develop metallurgy of Kazakhstan, to realize its potential and for ever to say goodbye to the status of a raw appendage fixed to the country.

Necessity of state regulation of metallurgy and direct participation of the state in programs of development of branch are inevitable also for the reason that investments into building of metallurgical complexes make some honeycombs millions dollars. To master them without state support to the small enterprise not on a shoul-

der, to stimulate internal consumption of production of high repartitions and at all a problem excessive. Branches-consumers of production with the high added cost (aerospace, electronics and electrical engineers, and etc.) in Kazakhstan for the present aren't present mechanical engineering, and investments into creation of such high technology manufactures exceed investments in metallurgy repeatedly.

In Kazakhstan all the same there are the companies, to one of which successful examples is joint-stock company «UK TMP» which moves not only desire multiply the capital, but also professional interest, care of image of the country and the company, requirement for creation something a significant and useful for today's and future society. And it means that there is a chance and hope of reforms in metallurgy.

RESOURCES

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5. Strategy of territorial development of Republic Kazakhstan till 2015
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THE NEED FOR DISTANCE LEARNING IN HIGHER EDUCATION

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Development and application of educational technology is one of the priorities among the many new directions of education development. It has recently attracted attention of scientists who analyze the issues and challenges of higher education institutions. One of the main directions of the educational process transformation has been the “educational informatization” based on creative implementation of modern information technology into teaching practices.

Global computer networks and Internet are actively used as the fastest way of communication and obtaining the necessary information. Throughout the world there is an active integration of information technology into the learning process. The concept of “open” and continuing education becomes very topical. This is largely contributed to advances in information technologies, which allow the new education process organization, and, in particular, developing of systems that could easily and effectively react to changes in society.

The education system at the present stage is experiencing a period of radical reorganization, and therefore it becomes very important to find new forms of educational process in educational institutions. Distance education may represent one of these forms. Opinion polls conducted in educational institutions show that the instability of the financial situation in the family makes it impossible for everyone to get full-time education at universities and only 40% of respondents sure that they will be able to study full time. More than 64% (among non-urban respondents - 70%) believe that the opportunity to have a distance form of education would be beneficial to them. The survey of citizens who already have education, sug-

gests that distance learning of individual courses, that they might need in their daily activities (especially issues of modern economy, issues related to changes in legislation, etc.) would also be convenient. Significant role, regarding this problem is the tuition of full-time and distance education, as well as the possibility of combining work and study. About 40% of the respondents were in favor of access to education without fixed terms of training, hence, the amount of studies courses not years.

Finding ways to improve teaching in the university becomes extremely important due to the large amount of new knowledge and growth-oriented information that both students and instructors should be able to orientate in. The number of students from different age groups, including academics, government officials, and managers of various levels are steadily increasing. These days, student and adult audiences need more than a good instructor; they need someone very knowledgeable about not only the subject, but also the ways to approach it. The instructor should perceive his/her audience as like-minded colleagues. Therefore, education, its objectives, contents, methods, and organization, become one of the topical issues of our time.

Intensification of education can be considered one of the promising trends of teaching activities mobilization. The concept of intensification was used earlier in the economy as labor efficiency, related to the question of intensity or the amount of labor spent by employees over a certain period of time.

When we talk about the intensification of education, we mean the amount of information presented by the faculty at a fixed length of study with a high degree of

quality and use of creative potential of individuals.

Increase in the rate of learning can be achieved through rational selection of educational materials, providing a logical succession of new material and repetition, and, in addition, the teaching methods must constantly improve.

Creativity is not just a buzzword of our time, but also the driving force of economic and social development.

Economy transformation requires the development and implementation of a personnel policy that would not only in words, but also in deeds, ensure the revitalization of all state governance structures. In this context, indigenous renewal of educational content becomes very important.

The Educational Act of Kazakhstan (Article 13) states that the content of education is a system of (complex) knowledge at each level of education, which serves as the basis for the formation of competence and overall personality development. The same article of the law states that the content of education is determined by the educational training programs that are developed based on state educational standards.

Revealing the essence of the problem of educational content, it is important to pay attention to the inertia of the component of our interest. It is recognized that the general didactic model evolves very slowly, gradually, including some corrective elements in educational practice. More recently, when the pace of social development was slow, the education system was aimed at a simple study of knowledge (including content management sciences). The evolution of education manifested itself mainly in a sequential and progressive self-update, increasing the list of subjects taught, and complicating the organizational model of education itself.

During the transition to new organizational and economic relations in the

management of multisectoral economy there are complex of dynamic processes arising that make it difficult to establish a unified concept for the development of the country and proposed model of future society. This greatly complicates the issue of fundamental reform of the educational process, including its contents. These days, it is confirmed by the absence of a unified concept of education system reformation and such an important part of it as a system of professional development.

It is necessary to purposeful design the system of education.

To successfully solve the problem of improving the quality of education, it is good to know the current state of scientific development in specific areas of knowledge, to use modern forms and methods of professional development.

Patterns of learning, development and strengthening of intellectual abilities, knowledge that allows developing effective ways of learning, engaged in didactics - can justly be called a theory of learning.

Didactics, as part of pedagogy, examines the traditional educational process in higher education.

During education, the emphasis should be placed on building up a substantial part of educational material, its scientific and practical relevance. This is what motivates learning and cognitive activity development of the students, on the one hand.

On the other hand, bringing the future practice trainee as close as possible to the practice and the third component is to apply the knowledge and practical experience of the learners themselves.

Thus, the basis of learning is the feedback effect that can increase the likelihood of achieving the desired state of the trainees during training.

Modern system of human resource development, as well as the entire economy of Kazakhstan, has experienced significant changes over the past decade. It

was particularly difficult for university professors to teach economic disciplines in 2007-2008, when they were forced to re-think the essence of economic processes in the country.

For example, direction of training for managers is as follows:

- providing an integrated system of professional knowledge in personnel management, in particular on the problems of organization, motivation, the methodology of development of governance system in the organization, creation of modern management techniques to achieve efficient use and professional development of employees;

- forecasting and identifying the requirements for workers and specialists, and the labor market research;

- planning, organization and control of professional development, advanced training of specialists and managers, creation of conditions for professional growth of employees in the organization;

- developing organizational structure, personnel arrangements, taking into account the movement of personnel, identification of the causes of staff turnover, and measures for its reduction;

- organizing the work on the certification of the workers and the formation of personnel reserve;

- assessing economic and social efficiency measures to improve the organization's management system and management personnel service;

- mastering the practical skills of independent analysis, design, research and management activities.

Training of specialists of a new format that adequately respond to changes in the economic situation in a market economy requires improvement of the whole education system. Restructuring of the

current training of specialists needs to be linked to the main tendencies of development of education under modern conditions, which is characterized by the following circumstances:

- internationalization and globalization of the economy, which has a profound impact on the development of economic education;

- expansion of the range of subjects studied in high school;

- individualization in training and in particular, training for managers;

- flexibility in teaching the basic academic disciplines;

- international cooperation in the preparation of students and also teachers;

- differentiated application of forms and training methods in order to achieve the best result from the chosen educational system, which requires the linking of subject courses with each other;

- providing the elective courses for learners in a set of proposed academic disciplines;

- the acquisition of practical skills of learners through the creation of consulting firms, which allow structuring these works and direct them to execute certain orders.

To assess the level of professional development of specialists in a particular specialization, the extent of their compliance with qualification requirements, as well as to evaluate the effectiveness of the organization, staffed by these specialists, the author proposes to calculate the following indicator, such as the Compliance rate of qualifications (Crq). It is determined by the ratio of the number of qualified specialists to the total number of professionals working in a company or organization.

$$Crq = Nqs / Tnp \quad (1)$$

Professional worker at a modern stage must meet the following require-

ments:
 - in the general cultural aspect - the

total preparation; goals and values in life, experience of communication with people, certain ethical and aesthetic skills, culture of speech and writing;

- in the professional aspect - competence in management of a certain sphere of public life, labor activity, discipline, sense of responsibility for the results of their work, ability to improve their skills through a process of continuous learning;

- in terms of personality - mental toughness, honesty, independence, decisiveness, initiative, communication skills, reliability.

The educational system, preparing today's professionals, must be guided by the following:

- target, the training of specialists;

- introduction of flexible forms of educational process, the removal of temporary barrier;

- development of a network of educational institutions across the region and the country as a whole, integration of the research and educational personnel;

- providing scientific, methodical research in management, economics, psychology and ethics, management labor, modern methods of evaluating the effectiveness of the educational process.

Thus, the modern system of training specialist needs to be forecasted, organized, and developed to prepare multifunctional workers, which would at the same time have a substantial specialization in a certain area. Therefore, the integration of academic disciplines and courses is what being offered.

Integration processes in education are natural because they are the result of the same phenomena that occurs in science, manufacturing, and in other areas of public life. That is why the integral education is absolutely essential. In modern conditions the integral training acquires a new dimension and becomes an effective didactic tool to bridge the digital boom, the formation of modern training in new

professions and professional fields.

Preparing students on the basis of the quantitative knowledge at a slow pace of science development and life itself is objectively facing the past. Today, such training is ineffective; it is an anachronism, because specialists, in connection with the growth and the rapid obsolescence of scientific and technical information must constantly update their knowledge, change methods, methodology and technology of work to be professionally mobile. Hence, the vital need for research in new scientific concepts in relation to training arises.

Problems and obstacles to implementation of distance learning in the educational process do exist and they lie in the issue that not the whole academic community overcame prejudices and conservative attitude toward the role of distant education. Historically, the majority of educational institutions involved in distance learning, act autonomously, and this seriously hampers the exchange of results and achievements. The lack of standards makes it difficult to integrate Kazakhstan into the world of distance learning education. The rapid development of electronic networking technologies, brought to the same quality standards, generates international competition of educational organizations and Kazakhstan in this fight is not a leader. Legal and regulatory framework may not be used for solving problems and legalization of distance learning, as there are many issues that cannot be solved by it. How to overcome such psychological and pedagogical issues such as achieving certain standards in training, which is inconsistent with the notion of human individuality, or the problem of personal interaction between teacher and student, the impact of facial expressions, gestures, voice? Does the requirements for the equipment and the composition of the library collection change? etc. These are the weak points of distance learning, which

require understanding and solutions from the scientific point of view.

The content side of learning should be: understanding in difficult situations, adaption of innovative thinking and optimal decision making.

All these elements will require the development of a broader concept of information processing in the learning process. Assimilation of knowledge should not be remote from practice and production, only then it can develop.

This means that the learning process should be viewed as a process of learning algorithms for future work, which is characterized by its practical orientation.

Training course - is a product offered for sale by educational institutions of developed countries on their own domestic and external markets training services. In western universities, the market mechanism of course sale is brought to perfection. In Kazakhstan, the private entities are more flexible in the development of market-rate course sale. However, even today in universities of Kazakhstan the success rate of a course becomes the object of increasing authority of the administration of educational institutions and teachers themselves. The success rate determines - formally and indirectly - the competitive position of a particular teacher, curriculum and educational institutions in general in the education market.

The success rate depends on several factors:

- its relevance for the target market (public, private and business entities, including foreign ones);
- the professionalism of teachers and the structures of the educational process;
- technological and informational

base of training;

- motivation of all participants in the reporting process of training services.

Leading factor in the success of the course is professionalism of the instructor, which is formed as a result of years of scientific, educational and practical work. Professionalism of the instructor, indeed, makes the course interesting and beneficial not only to the students, but for all the parties involved in the educational process.

Instructors' professionalism has three main components:

1) Attitude toward the students: the ability to focus on student (rather than him/herself), friendliness, sympathy, responsibility for teacher involvement in student learning process;

2) Competence (knowledge of the subject taught, as well as didactics and teaching methodology) responsibility of own knowledge of the subject, the ability to organize goals, the desire to do something;

3) Creativity: the ability to arouse student interest, the imagery in the representation of the material, originality, connection to reality.

The absence or weakness of one or more components of the professionalism of the instructor is one of the main reasons for low student satisfaction with training sessions or a course in general.

An instructor that possesses communicative competence, which can be identified as one of the key competencies, can develop the creative ability of students.

Communicative competence can be represented by Figure 1.

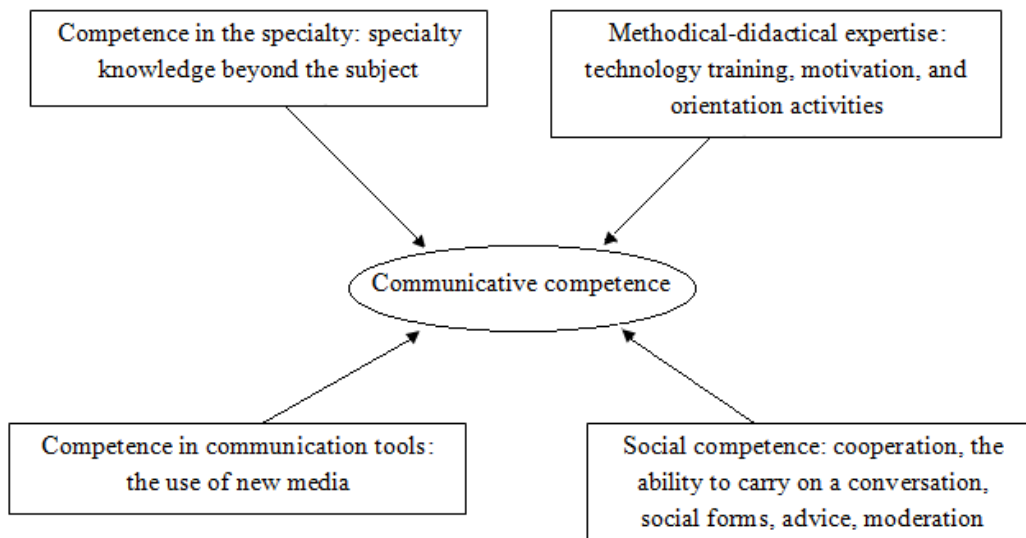


Figure 1. Spheres of instructor competency

Thus, the need for the development of distance learning in higher education is in the following areas:

- lack of qualified specialists;
- growth of new knowledge, information, which is difficult to navigate without special training;
- objectives, content, methods, and training have become topical issues;
- intensification of education dictates the need to raise the professional level of teaching;
- professionalism has three components: competence, attitude towards the students creativity.

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A MODEL OF ENTREPRENEURSHIP EDUCATION

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Training of entrepreneurs, who are capable of successful management of sustained business in the conditions of the world economic crisis, is one of the priority trends of specialist training by universities, oriented for innovation development.

In spite of the importance and great significance of entrepreneurs training in the framework of the state, this issue is not developed enough, in our opinion, in the areas of program evaluation and curricula design in the sphere of specialists training for entrepreneurship and business management.

Based on the experience of an organization and running of the Kazakh-Korean Higher school of innovative entrepreneurship, in cooperation with Hoseo University – an institute of global importance which trains CEOs of many world famous and global companies with a well known Graduate School of Entrepreneurship, and also on the basis of literature analysis we made an attempt to design a model of entrepreneurship education.

In our opinion, entrepreneurship education depends on many factors: approaches to education, skills and capabilities necessary for the entrepreneur, means of stimulating entrepreneur's creativity (questions, activities, and assignments), techniques and activities for class efficiency, etc.

Conceptualizations of entrepreneurship vary in nature. Entrepreneurship can be a way of thinking and behaving that is opportunity based and holistic in approach (Timmons, 1999). Then, entrepreneurship results in creation, enhancement, realization and renewal of value, not just for business owners, but also for all participants and stakeholders (Timmons, 1999). Entrepreneurs are individuals who manage the uncertainties of the entrepreneurial environment, and embrace the chaos and ambiguity of change. Entrepreneurship occurs in all firms, in all enterprises, and in all sectors, imposing demands for organizations and individuals to develop entrepreneurial skills to cope with this uncertain and complex business environment.

It is a widely held view that entrepreneurs are action-oriented and that much of their learning is experimentally based

(Rae and Carswell, 2000). Furthermore, entrepreneurs 'learn by doing' and 'trial and error' as well as problem solving and discovery (Deakins and Freel, 1998; Young and Sexton, 1997).

Many programs for entrepreneur training adopt a learning approach that required cognitive flexibility (Spiro et al., 1991), where learning results from the interaction between people having different experiences and perspectives (Goldman-Segall and Rao, 1998).

A synergistic learning approach is sometimes chosen to entrepreneurs' education because it offers a high potential for collaborative learning between participants (Siebenhuner and Hoffman, 2002). The synergetic learning approach is grounded in constructivist learning theory; that is, the learner is actively involved in the joint enterprise of learning with the educator and together they create new meanings (Atherton, 2003). This approach allows for the articulation and interaction between different perceptions, interpretations and arguments by the participants involved. These interactions might result in discovery of concrete solutions to problems, the development of new ideas and the resolution of complex decision-making scenarios, and is therefore an appropriate approach for discovering entrepreneurship.

Synergistic learning makes use of participatory methods. The following were used in the discovering entrepreneurship program by Kanji and Greenwood (2001):

- Cooperation, where all participants together determine priorities; the responsibility to direct the process lay with entrepreneurs and facilitators.
- Co-learning, where all participants shared knowledge and created new understandings and worked together to form plans of action.
- Consultation, where nascent entrepreneurs' opinions were sought and existing entrepreneurs and facilitators analyzed and decided on the course of action.

- Collective action, where nascent entrepreneurs set their own agendas and then carried out the action without direction from existing entrepreneurs and facilitators.

The facilitators involved in the delivery had to be willing and comfortable with risk taking and 'shifting goal posts', and had to possess good communication and sound conflict resolution skills (Kanji and Greenwood, 2001), with an emphasis on being a co-learner rather than the expert.

Luke Pittaway and Jason Cope also support the idea that a holistic approach can be used in entrepreneurship education, but it needs to be developed that can present to some extent multiple levels of analysis. For example, this thematic model suggests that study on pedagogy at the level of individual programs is inherently embedded in a wider context of the institution and government policy on entrepreneurship education. Inevitably, therefore, debates about appropriate pedagogy sit within the context of what entrepreneurship education is understood to 'mean' or what entrepreneurship education 'is' or what it is trying to 'do', axioms that are themselves guided by contextual factors. It is also inevitable that these contextual factors are further influenced by the wider

society and particularly its culture.

It is also possible to understand entrepreneurship education systemically; in the sense of being able to identify contextual factors; inputs into system; educational processes; and, outputs. The systemic nature of entrepreneurship education is, however, complicated by the fact that there is little clarity about what the outputs are designed to 'be'. This lack of clarity about the intended outputs leads to significant diversity surrounding the inputs. In this sense the idea of 'entrepreneurship education' as one thing would appear to be rather problematic suggesting further effort is required to begin the development of detailed taxonomies and typologies based on current international practice.

Thus, entrepreneurship education, as a research domain, while gathering some momentum has a great deal more to do to integrate understanding across the different levels of research endeavor and needs to be better linked into general debates on adult learning, management learning and role of HE in general.

It is important to mention that there are some differences between Business school approach and entrepreneur real world approach, which are reflected in the table.

Table 1. Contrasting learning approaches; the business school approach versus and the entrepreneur real world approach

Business school approach	Entrepreneur real world approach
Analysis of large amount of data taking a critically evaluative approach	'Gut feel' decision-making with limited information
Understanding and recalling the information gathered for its own sake	Understanding the underlying values and motivations of those who supply, transmit and evaluate/filter the information
Finding and gathering information from 'approved' sources and from 'proscribed 'experts'	Finding and gathering information from multiple sources, in different ways and evaluating it
Studying information to gain verification of truth	Verification of decisions made on the basis of own judgments about people
Evaluation of competence through completion of written or oral assessment	Evaluation through direct feedback from multiple sources, including people and events
Learning in the classroom	Learning while and through doing

It is necessary to point out that entrepreneurs' training on the basis of both Hoseo University Graduate School of Entrepreneurship (South Korea) and East-Kazakhstan State Technical University Kazakhstan-Korean high school of innovative entrepreneurship (Kazakhstan) entrepreneur real world approach is used. Most of the professors of Hoseo University who give lectures to entrepreneurs are the owners and CEOs of real businesses; they have necessary experience and can share it with the students. It is very important, in our opinion, that future and present entrepreneurs can get real experience that can be

applied in real business situations.

Basic entrepreneurship skills are reflected in table 2. The most important, in our opinion, is creativity. Timmons (1994) has argued that creativity should be central to entrepreneurship education provision, and the concept of creativity has been a constant focus of educational thinking and practice (Torrance and Rockenstein, 1988). Furthermore, Gibb (1996) proposes that certain basic stimuli for entrepreneurial behavior lie naturally within the culture, talk structure and learning environment in higher education.

Table 2. Discovering entrepreneurship: key entrepreneurship capacities

Motivation	Entrepreneurship skills	New venture creation
Self-motivation	Opportunity spotting Team building	Sufficient contacts – managing networks
Clear values	Speed	
Risk-taking	General knowledge of business skills The ability to fail	Taking risks Responding quickly
Need for achievement	Positive thinking Vision	Managing conflicts
Internal locus of control	Creativity Creative problem solving Intuitive decision-making	Innovation
High tolerance of ambiguity and novelty	Managing interdependency on 'know-how' basis Negotiation skills Strategic thinking Time management Persuasion	General management skills Presentation skills Interpersonal skills Business planning skills

In Jonston's (2000) opinion, systematic approaches to the development of creativity amongst higher education students appear to be limited, particularly in the UK. The consequence is that prospective lectures and students find themselves with little practical guidance to action.

To develop future entrepreneur's creativity it is necessary to aim the education to:

- nurture capabilities of personal and team creativity;

- promote understanding of the nature and role of creativity within a student's individual social and economic contexts;

- overcome barriers to the creative process;

- develop frameworks within which to evaluate creative, entrepreneurial opportunities;

- enhance communication and presentation skills; and

- improve team building and work-

ing abilities.

Entrepreneurship is the innovatory process involved in the creation of an economic enterprise based on a new product or service which differs significantly from products or services in the way its production is organized or in its marketing.

Personal creativity is a process of becoming sensitive to or aware of problems, deficiency, and gaps in knowledge for which there is no learned solution; bringing together existing information from the memory storage or external; defining the difficulty or identifying the missing elements; searching for solutions, making guesses; producing alternatives to solve the problem; testing and re-testing these alternatives; and perfecting them and finally communicating the results.

Without such action there can be no entrepreneurship. It is proposed that one key to unlocking the potential of entrepreneurship within an individual member of society, and the degree to which their personal creativity exists or can be stimulated, may be through appropriate educational interventions. The above definition suggests that such interventions should focus on the nurturing of innovation and creation, towards commercial application, through the heightening of personal qualities of reflecting, doing, valuing, feeling, behaving, and relating to others. They would aim to sensitize potential entrepreneurs to the value of a disposition to personal creativity as related to entrepreneurship, and develop skill in using creative techniques in relation to business idea generation and problem-solving. This contrasts quite sharply to traditional higher education curricula that emphasize sequences of instruction and examination in bodies of subject knowledge, and their associated methodologies, frequently organized within established disciplinary frameworks and leading to a university degree in a given subject of subjects (Johnston and Morrison, 1997).

In the present article we would like to share the experience of entrepreneurs' training on the basis of MBA international program which was started with contract concluding on December 29, 2008.

Graduate School of Global entrepreneurship at Hoseo University was started in March, 2005.

The purpose of this school is to teach a systematic theory on starting new business and foster entrepreneurship to raise global talents for starting new business and consulting through special courses.

The goals of Graduate School of Global Entrepreneurship are promoting global entrepreneurship, raising global consultants for starting new business and the scope of study, support the activities of starting new business, promoting the capabilities to coordinate with overseas enterprises and concerning organizations.

Kazakhstan-Korean Higher School of Innovative Entrepreneurship at East-Kazakhstan State technical university in honor of D. Serikbayev (EKSTU) was established in April, 2009.

First master students were enrolled on September 1, 2009.

According to the contract and the agreement between the universities, the students study during their first year at EKSTU with participation of Hoseo University professors. They come to EKSTU to deliver lectures three times a year. During the first year EKSTU organizes advanced training in English and Korean. At the end of the first year master students have to complete master dissertation on the topic of some business venture and with successful completion of studies get a diploma of master of management from EKSTU. During the second year the students of EKSTU study at Hoseo University and present a business plan of a start-up venture.

Professor Hong Kim, the dean of Graduate School of Global Entrepreneur-

ship conducts lectures on the discipline of Innovative Entrepreneurship.

His lectures are a great stimulus for future entrepreneurs to start new businesses. They can obtain new ideas from the lectures and come up with their own new ones.

The contents of the lectures include:

- The questions every entrepreneur must answer: Goals, strategies, capacity;
- How to write a great business plan;
- How entrepreneurs craft strategies that work;
- Milestones for successful venture planning;
- Strategies vs. Tactics from a venture capitalist;
- Bootstrap finance;
- Commercializing technology what the best company do, etc.

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UNDERSTANDING THE INFLUENCE OF EXTERNAL ENVIRONMENT ON THE DEVELOPMENT OF POST-SECONDARY EDUCATION IN KAZAKHSTAN

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The last decades of the past century and the beginning of this century witnessed an academic revolution all over the world. The academic changes are very intense due to their global nature and the number of institutions and people they affect. Higher education has turned into a competitive enterprise competing for the niche in the education market (Altbach et al, 2009). Like any other business, institutions of higher education have to be governed taking into consideration norms, rules and laws of for-profit organization management. To be able to stay competitive in this rapidly changing world and to effectively design and realize change management strategy we need to understand the environment in which an institution of higher education operates and the way colleges and universities are organized. This paper makes an attempt to describe external and internal environments of higher education in Kazakhstan which can be helpful in understanding change and tailoring change management approach.

The external environment of higher education consists of multiple components which form several mega-forces influencing the development of the educational system: political, economic, technological and social (Scott, 2003). Political force includes current legislation of the country related to education, intergovernmental agreements, international relations in educational sphere and overall country policy. Major political and economic force is globalization and marketization of all spheres of life including education. Social factors include demographic situation, welfare of the population, changes in the family size, while technological changes involve rapid development of technology,

emergence of on-line educational services and new forms of education.

Let us consider all these components in a more detailed fashion.

Governmental policies have a broad effect on institutions (Green, 1987). Kazakhstan has been creating its new education legislation since gaining independence in 1991. The major law regulation operation of the system of higher education is the Law of Higher Education adopted in 1993, Law on Licensing, Law on Education of 1999 and Legal and Regulatory acts of the ministry of Education. The central executive body responsible for the management of the system is the Ministry of Education and Science of the Republic of Kazakhstan. 7th Edition of the World Data on Education describes its functions as defining and executing State educational policy, drafting and adopting state educational standards, preparing state orders concerning specialists training, providing assistance in organization of educational process in the Kazakh language and establishing international agreements.

These legal regulations make a certain impact on how educational institutions operate. One of the major changes of the last years resulting from an attempt to create a common open educational network which makes credits transferable, degrees convertible and diplomas internationally recognized is joining the Bologna process. The system of higher education experienced fundamental change in 2004 when the 5-year training specialists system was abandoned and universities started training students according to a bachelor-master-doctor model (Piven', Pak, 2006). Adopting Bologna process is however

goes far more beyond adopting the three level system. Among other things university programs should be more student-centered and aimed at the desired outcomes rather than on number of credit hours offered (OECD, IBRD, WB, 2007).

Another important change in the operation of education institutions is caused by Kazakhstan language policy. Article 4 of the Law of the Republic of Kazakhstan on Languages adopted in 1997 runs: "The state language of the Republic of Kazakhstan shall be the Kazakh language. The state language shall be the language for state management, legislation, legal proceedings and office work, functioning in all spheres of social relations in the entire territory of the state. The duty of each citizen of the Republic of Kazakhstan shall be mastering of the state language, being the major factor in consolidating the people of Kazakhstan".

With the adoption of the Law on Languages all education institution made an emphasis on teaching the Kazakh language and providing instructions in Kazakh. Secondary and higher education schools increased the amount of hours devoted to studying the state language. This created demand in developing teaching materials and methodology in teaching all subjects to a Kazakh speaking audience. Besides the Law which determines the status and role of the state language there is a state educational standard issued by the Ministry of Science and Education which describes the state policy toward the English language and determines the amount of time which should be devoted to studying it. All these is the result of the state language policy proposed by the President of the Republic of Kazakhstan.

As we entered the twenty first century, the major forces of a larger societal environment are reshaping the nature of postsecondary education. Speaking about major economic forces influencing higher education we should mention globaliza-

tion, marketisation and commercialization of all spheres of human activity, increased competition between academic institutions, changed profile of labor markets, and other factors. An institution such as higher education could not survive in a society undergoing radical changes unless it succeeds in adapting to those changes. (Ehrle & Bennet, 1987)

Competition, which is primarily an element of business world, has become one of the major issues to consider while governing institutions of higher education. The major forces that shape the competition within postsecondary education industry are similar to those that influence competition in a business world and as follows: the threat of entry into industry by new organizations, the bargaining power of suppliers (students clientele), the bargaining power of customers (employers, funding sources), and the threat of substitute services. (Peterson & Dill, 1997)

Between 1950 and 1990, business scholars proposed two dozen management innovations, some of which were adopted by institutions of higher education. The management innovations considered were Planning, Programming and Budgeting System, Zero-Based Budgeting, Management by Objectives, Strategic Planning, Total Control Management, Business Process Reengineering, and Benchmarking. (Birnbaum, 2000) Some of them, or their elements, have proved to be useful in higher education environment and are still considered by university authorities.

The development and advocacy of new management approaches in academic world continues, and at an increasing pace. The fact that academic and business organizations have a lot of common features and that they are influenced by the same external environment forces and the experience of the past show that business theories might be successfully implemented in the academic setting. Peculiarities of academic institutions that make

them different form for-profit organizations suggest that business management innovations should be tailored to the nature and needs of postsecondary education industry and not be used as universally applicable quick-fix solutions.

The collapse of the Soviet Union and emergence of new independent states brought a shift from a planned to market economy. This resulted in decrease of a public mission of higher education and contributed to the development of private higher education sector. For the period from gaining independence in 1991 to the present day the number of private institutions of higher education increased from zero to 95 in 2010, while the number of students enrolled in private post-secondary institutions exceeded the number of students enrolled in public universities (94,7 thous. students and 86,4 thous. students respectively according to the data of the Department of Statistics of the Republic of Kazakhstan). Unlike state institutions of higher education private institutions have more operational freedom and greater management flexibility. Private institutions are not bound with any kind of responsibility to allocate resources according to the parameters the Ministry of Education and Science laid down; they can purchase any equipment and study materials they need and own their land and buildings. While private universities still have to comply with the regulations of the Ministry to be able to operate in the educational market, they have a greater degree of autonomy and thus are capable of adapting quickly to the changing environment (OECD, WB, 2006).

Another factor that has changes the face of higher education is its commercialization. Bok defines commercialization as "efforts within the university to make a profit from teaching, research and other campus activities." Universities started to provide services for certain fees, which vary greatly depending on the University

reputation, major and degree offered. Programs training students in economics, marketing, finance, management, computer studies, law which are currently in demand and prove to be quite prestigious attract more students and universities spend more money on development of these programs. Programs offering degrees in teacher education, Russian language and literature, history and some other classic disciplines have become poor stepchildren for higher education institution since they produce less income for the universities. They suffer from poor enrollment rates and receive less research money.

On the other hand, these programs receive grant money in accordance with Article 43 of the Law on Education which states that higher education is financed in accordance with the State Education Order. Thus, in order to regulate training of specialists the States places an order, which means cover the expenses, for training specialists in certain fields like teaching, agriculture, medicine and engineering. Those who want to be involved in marketing, management or law have to cover the costs of education and training on their own.

A key indicator of whether a higher education system is the right size is whether it is producing the right numbers of trained workers to meet the needs of the country's labour market. This is usually assessed by looking at whether there are unemployed skilled workers or skill shortages in the economy as a whole or in key employment sectors. Another indicator is the percentage of graduates who find jobs on graduation. Preferably, these would be jobs in the disciplines the graduates have trained in, especially in specific vocational areas, like medicine, that require long and expensive training; but in a free labour market a perfect match between supply and demand is unlikely, and higher education can be said to serve its labour market purpose wherever a person's qualification

assists them in getting a job. Graduates with relevant qualifications can also aspire to compete in the international labor market (OECD, WB, 2006).

Currently in Kazakhstan there is a lack of interaction between the labor market and the system of higher education. Post-secondary institutions tend to provide educational services in the fields that are in demand by applicants (or their parents) rather than by labor market. According to the data, social professions and the humanities are in highest demand among students as well as pedagogical education due to relatively inexpensive tuition. There is an oversupply of economists and lawyers with poor knowledge and skills. Another example of this mismatch between higher education and the labor market is the shortage of Information Technology specialists, who are in high demand by the market (IBRD, 2007).

The next mega force which influences the development of higher education is a set of social factors which includes change in demographic situations, family incomes, massive movement of population from rural areas to cities, establishment of admission quotas and grants for applicant from rural areas and so on.

Ashimbayev and his co-authors in their paper "Current demographic situation in Kazakhstan" made an analysis of the demographic situation and proposed a number of policies to improve it. Some facts they state in the work which are of relevance to higher education are as follows:

1) The country's total population has declined by 7.7% from 1989 to 1999, and though the last years show slight growth in the population, the changes mean that at the present period of time the number of 19-to-24-year-olds is rather small and will continue to drop steadily from a peak of 180 thousands in 2010 to below 120 thousands in 2025;

2) The share of Russian-speaking

population declined, while the share of Kazakh speaking population increased, which brings certain changes related to the language of instruction and methodology used in educational institutions;

3) The number of males declined relatively to the number of females, which may cause certain changes in the labour market and demand for certain professions;

4) The average size of the family declined. This seemingly irrelevant for education factor also brings changes to the education system: the state developed a policy for providing benefits for large families and young families;

5) The health level of children declined which can have a certain negative impact on the quality of education.

According to the Department of Statistics of the Republic of Kazakhstan the State Education Order shows a steady growth. The number of student in higher education institutions studying at the expense of the state increased from 440 thousand students in 2000-01 to 610 thousand students in 2009-10.

The last in a line, but one of the very influential forces, is the advancement of technology of the recent years. This factor, as well as a political factor, influence the development of post-secondary education sector in a direct way. Development of technology has brought changes in types of education institutions offering the degrees in educational markets, contributed to the development of on-line programs and virtual universities, created possibilities for getting access to the programs of the best world universities from literary any place on a globe. Technological advancement made a huge positive impact on research since it provided opportunity to use resources of large universities and resource centers from a home computer. Technology advancement also greatly changed the way university subjects are taught to the students.

Bringing technology into the classroom generates certain advantages and disadvantages to the students. Among advantages we can mention a great degree of flexibility, convenience, access to very diverse backgrounds of students and other things. Class members can communicate freely physically residing in different hemispheres of the globe, providing their cultural experience and contributing to a more comprehensive scrutiny of the studied problem. Disadvantages include technological glitches, delay in communication, inconvenient time for webinars and video conferences.

Thus, we have made an attempt to describe forces influencing higher education development worldwide and in Kazakhstan. Understanding these factors of influence, reasons for their emergence and impact they make is of primary importance for education leaders in managing education change. What has been described in this paper is just a tip of an iceberg – the topic needs a more thorough investigation with reference to statistics and university practices.

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INDIVIDUAL INCOME TAX AS AN INSTRUMENT FOR INCOME REDISTRIBUTION IN THE REPUBLIC OF KAZAKHSTAN

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Individual income tax is an integral part of a government tax system that should fulfill both fiscal function and solve the social-economic problems of a country. A tax system should develop the economy and its subjects (entities), balance public and private interests, create an effective system of social guarantees for the population, help to reduce significant gaps between the level of consumption of the richest and the poorest groups, which have been formed over the past two decades.

I. Analysis of the development of taxation on individuals in the Republic of Kazakhstan

According to the Tax Code of the Republic of Kazakhstan (further "RK") individual income tax has been calculated with 10% flat rate since January 1, 2007. A progressive rate of taxation was used up to that time. From January 1, 2001 to January 1, 2007 a taxpayer's income imposed for the tax year was collected at the rates presented in Table 1.

Table 1. Rate of individual income tax in the RK for the period From January 1, 2001 to January 1, 2007

Taxable income	Tax rate
Up to 15 ACI*	5 % of taxable income
15-40 ACI	5% of 15-times annual calculation index + 8% of the amount exceeding it
40-200 ACI	the amount of tax of 40-times annual calculation index + 13% of the amount exceeding it
200-600 ACI	the amount of tax of 200-times annual calculation index + 15% of the amount exceeding it
from 600 ACI	the amount of tax of 600-times annual calculation index + 20% of the amount exceeding it

* ACI – Annual Calculation Index

At the same time the income of employees, taxed at the source of payment that does not exceed 12 times of the minimum wage according to the Law of the Republic of Kazakhstan "On Republican Budget" within one financial year is subject to a tax at the rate of "0%". Under the condition that the average income of an employee during the quarter does not exceed the minimum wage.

The progressive scale of rates on individual income tax was abolished by the Law of the Republic of Kazakhstan "On Adopting Amendments and Additions to

Some Legislative Acts of the Republic of Kazakhstan on Issues of Taxation," July 7, 2006 № 177-III ZRK. From January 1, 2007 was replaced by the single flat tax rate at 10% for everybody. Legislators of the Tax Code also presented such innovation, as the liberalization of the tax legislation in Kazakhstan and its improvement for all taxpayers. In this case, one of the reasons to introduce a flat rate tax was to facilitate the removal of citizens' incomes from the shadow economy. At that time, some large employers criticized the legislators, because it meant an actual tax in-

crease from 5 to 10% for the vast majority of employees.

In 2010 there were opinions in Kazakhstan that in order to implement the principle of tax equity it was necessary to return to a progressive rate. The proposed bill has the scale of 10, 15 and 20%. As of today, a decision has been taken to postpone the adoption of the bill until 2013.

II. Analysis of the effectiveness of the introduction of a flat tax

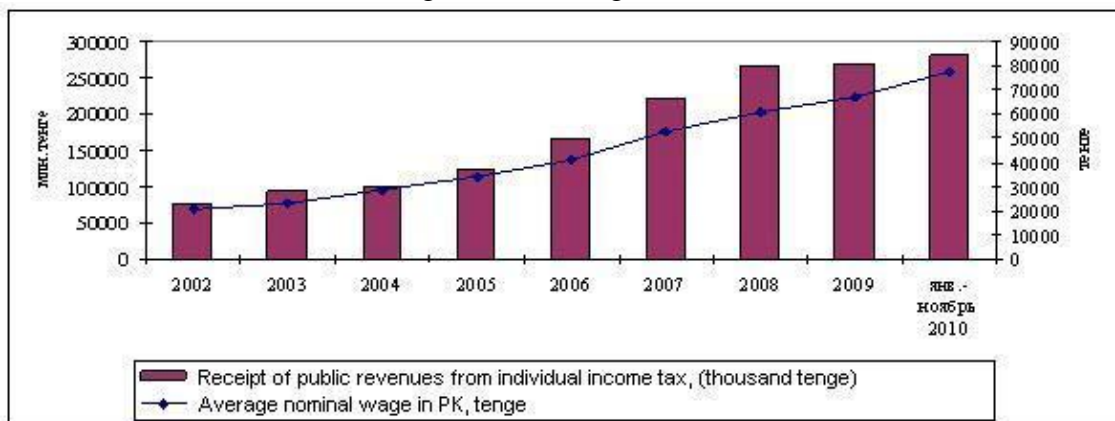
As noted above, since January 1, 2007 in Kazakhstan a progressive scale of taxation on individuals has been replaced by the single income flat tax rate of 10%. The question remains if this tax reform has been effective.

Yuriy Gorodnichenko, Jorge Martinez Vazquez, Klara Sabirianova Peter, conducted a study using a database survey of households in Russia [1]. They con-

cluded that the adoption of a uniform tariff rate of income tax does not lead to significant increase in tax revenues, as originally anticipated, because its impact on productivity, according to the analysis, is relatively small. However, the above researchers argue that if the economy is plagued by ubiquitous tax evasion, as it was in Russia uniform tariff rate may lead to a significant increase in total tax revenues through increasing voluntary compliance. In addition, in the course of their research they found out that the most significant reduction of tax evasion was among taxpayers who have experienced a significant reduction in tax rates once a flat rate of personal income tax was introduced.

Our analysis, conducted using data provided by the Tax Committee of the RK {2}, has shown a growth of receipts of revenues from individual tax income during the period from 2002 to 2010.

The Graph 1. Dynamics of growth of public revenues from individual income tax and an average nominal wage in 2002-2010



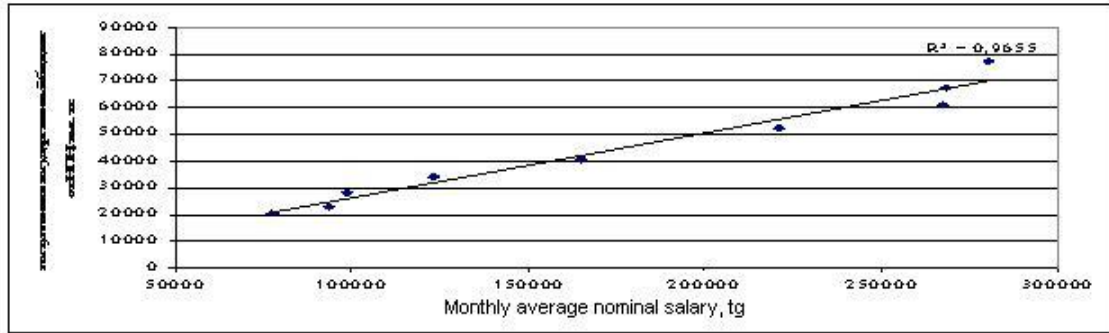
Introduction of a flat taxation scale

*Done by the authors using the data of the Tax Committee of the Ministry of Finance of RK and Statistics Agency

In Graph 1 we can see that since the moment of the introduction of a flat scale of taxation (2007) there was no sharp increase in tax collection. Most likely, the

growth was caused by growth of nominal wages in the country. Having correlated two indices, we have found that close direct relation occurs (Graph 2).

Graph 2. Relation between state income from Individual Income Tax and an average nominal wage



Revenue to the state budget from Individual Income Tax, thousand KZT

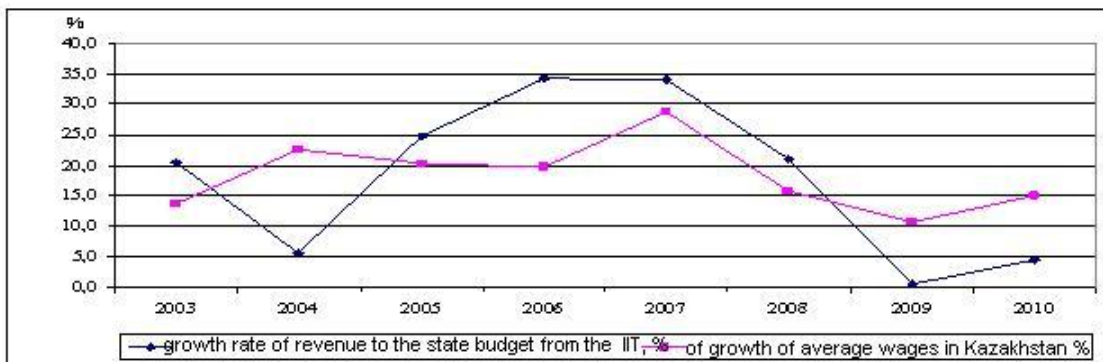
* Done by the authors using the data of Tax Committee of the Ministry of Finance of RK and Statistics

However, here one can also see that if the change of the scheme of taxation effects the collection of taxes and the withdrawal out of shadow of wages fund of Kazakh companies since 2007 to a large extent. It was reasonable to observe growth of tax collection rates. In addition, a multiple regression coefficient equal to 0.96 suggests that the increase in revenue to the state budget for the period was 96%

due to changes in average nominal wages.

Graph 3 shows that the index of revenues from the IIT to the state budget (in % for previous year) from 2005 to 2007. This was higher than the growth of wages since 2007. The rate of increase revenue dropped sharply. Such sharp decline is likely due to the economic crisis in the country.

Graph 3. Growth rate of revenues from IIT and the average nominal wage in Kazakhstan from 2001-2010



Thus, studying the data provided by the Tax Committee of the Ministry of Finance, we can make a preliminary conclusion that the goal set by the developers of a flat rate of taxation - the increase of income from IIT to the budget and the withdrawal of shadow wages was not achieved. We interviewed 15 experts in the field of taxation, finance and manufac-

ture. All respondents were inclined to believe that the flat rate of taxation is extremely beneficial for companies from the point of view of simplicity of tax payments. Some regarded the transition to a flat rate of taxation as a reduction of the tax burden on business.

The financial director of an industrial company (wine products) explained,

"As our company produces excisable products, we always show all income legally. Transition to flat rate of taxation for our company resulted in a reduction of taxes, as now we have to pay less tax from our salary fund. For example, we employ a technologist, whose market salary is \$1000 (after payment of all taxes and deductions) that is, the costs of the company on this employee will be: \$ 1000 plus 10% income tax plus 10% pension plus all social security tax. Until 2007 a scheme might be $1000 + 15 (20) \% + 10\% + \text{social tax}$.

Naturally the rate has been decreased and the company's costs and the cost of its products have decreased. Now there is no need to hide all sorts of bonuses, etc. The tax changes are of no significance for those enterprises that pay wages under the table that is completely shady. "

Maksat Aldeshev, – Deputy Director General for Economy and Development LLP KazInterCom appraised the situation, "I think they have to pay even more because of the calculation of IIT has become easier. It has become difficult to "pull out cash" (because of tax audits), so it's easier to pay wages officially. I have not seen a single company over the past 5 years that would pay salaries under the table. Apparently, there are still companies who do not show wages officially, but it is actually easier and cheaper to pay taxes for the majority of them than to pay the salaries under the table, "pull out" cash and still pay a percentage to offices which are cashing money."

A general manager of a research firm said, "Yes, this scale is much easier to calculate taxes for accountants and employees themselves. In addition, as the percentage of tax burden for the higher income groups has been reduced, it has positively influenced the output of wages from the shadow economy. Companies are interested in a single tax. In percentage

terms, everyone pays the same – only 10%. It's fairly easy to calculate and is doable from the psychological point of view. It is easier to pay 10% of salary, rather than 15 or 20%".

A chief accountant of a large trading company said, "After the introduction of a simplified calculation in our holding, the salary remained hidden and only in 2009, when the risk of cashing the money increased, we were forced to report the salary. Our leaders do not think of the complexity of the calculation, they are interested only in saving money on taxes."

We can make a conclusion that the withdrawal of a significant part of the salaries from the shadow economy in Kazakhstan has occurred, but it was most likely not due to the reform of taxation but due to the improvement of tax administration in the country. The introduction of a unified tax rate on individuals in 2007 led to the increased tax burden on the poorest part of the population (since for them the tax was increased from 5 to 10%) and to the decrease of those whose salaries were above 150,000 tenge. This enabled companies to withdraw higher salaries from the "shadow", to simplify financial schemes, and decrease expenses.

III. Can individual income tax be used as a mechanism for redistribution of income in the Republic of Kazakhstan?

The report of the OECD, «Unequal Growth: Income Distribution and Poverty in OECD Countries" for 2008, shows that in the vast majority of countries income inequality has been growing at least since the mid 1980s. Recently, the sharp rise has been noted in Canada and Germany, and a decline in Mexico, Greece and Britain. In developed countries governments collect more taxes and spent more to compensate the rising trend of inequality. The redistributive effect of public expenditures has weakened the growth of poverty in the decade from the mid 1980s to the mid

1990s, but increased poverty in the subsequent decade, as the benefits became less focused on the poor [3].

Free market economies can often result in increased wealth by individuals and consequently, in income inequality, which can be mitigated by the government in a process of redistribution [4]. Many western economists believe that progressive taxation coupled with universal guaranteed social security benefits plays a role in income redistribution. However, such a transfer may entail negative effects, the so-called “fairness and efficiency” compromise (Alston et al, 1992; Kearn et al, 1979; Ricketts and Shoesmith, 1992). But, despite the fact that many scientists and politicians lean towards a redistribution of income, a controversy arises regarding the mechanisms of these distributions. Disputes include questions such as: how to determine the optimal level of distribution, whether the current level of real redistribution is above or below the optimal level, and which specific redistributive mechanisms are the most effective.

And while in the limelight are primarily questions of increasing inequities in the distribution of labor income, which can be improved through progressive taxation of income, many people say that income inequality is less significant than inequality in capital distribution (Bartels, 2008, Keister, 2000, Smith, 2001 and Wolff 1995). The economic argument that a very high level of wealth and capital inequality can cause the reduction of volume of production is less popular. In accordance with this last argument, in the case of wealth distribution there is no conflict between fairness and efficiency.

Nevertheless, the system of taxation of individual income has to stimulate economic activity, which has a direct impact on economic growth in the country. In many countries for these purposes a progressive tax rates of individual income is applied.

While in the West there is a concept of fiscal integrity of a minimum level of income per person needed for a living wage. The essence of such a minimum is to allow each taxpayer to restore adequately their potential and potential members of his or her family from his or her income, and in addition to this amount to oblige him to pay income tax. Government does not claim to such revenue of its citizens [5]. For example, taxpayers with low incomes are free from income tax. In Luxembourg and Austria the zero rates is applied for income up to \$1000 a month, in the USA- up to \$700, in Ireland - up to 600, in France - up to \$ 500.

Director of the Institute of Financial and Tax Law, Doctor of Juridical Science E.V. Porokhov says that Kazakhstan has already overtook and left behind the West by the prices of goods (works, services) of public consumption and by the value of human life (as a process), but it is still lagging behind by social and fiscal guarantees of providing this life [5].

In Kazakhstan, the taxation is the combination of all individual income (both earned and unearned) and their levying the rate. However, in order to apply the principle of efficiency and fairness, the tax rate should differentiate between sources of income. For example, Prokhorov proposes to differentiate: 1) Income taxed at the source of payment. 2) Income under an employment contract 3) Property income, and 4) Dividend income and income of certain categories of individuals (lawyers, notaries, individual entrepreneurs).

Considering the issues of income inequality and redistribution mechanisms, many Western economists suggest that the redistribution of wealth through progressive taxation of property is more effective than the progressive taxation of income from employment (Bartels, 2008, Keister, 2000, Smith, 2001 and Wolff 1995). The economic argument that a very high level of wealth and capital inequality can cause

a reduction of volume of production is less popular. In accordance with this last argument, in the case of wealth distribution there is no conflict between fairness and efficiency.

Nevertheless, a system of taxation of individual income has to stimulate economic activity, which has a direct impact on economic growth in the country. In most countries around the world for these purposes a progressive tax rates of individual income is applied.

Also it should be noted that "income of individual occupations (creative, intellectual) requires preliminary long-term investment in advanced education and skills rather than routine monotonous work" [5]. Therefore, in respect of such professions a special tax clause in fixing rates of taxation of their incomes should be made.

If Kazakhstan wants a professional, well-educated population, it should stimulate citizens' zeal for education and nurture in them respect for science and vocational education, including through taxation. The President of Kazakhstan Nursultan Nazarbayev in his speeches repeatedly stressed that one of the main objectives of the national "Project Intellectual Nation – 2020" is to bring up a new generation in Kazakhstan and transform Kazakhstan into a country with competitive human capital. Accordingly, the government should create the necessary conditions to support increased human capital through tax policy.

The deputy of Mazhylis of the Parliament of the Republic of Kazakhstan, President of the Finance and Budget Committee, and Doctor of Economic Sciences, Professor G. Karagusova noted the existence of high taxes in Kazakhstan and the absence of deduction system for an individual: "First it is necessary to provide a system of deductions for the individual, in order to create conditions for his/her development as an educated, healthy and law-abiding citizen of the

state». Many Western researchers hold this point of view as well.

James A. Yunker (2010) in his article «Capital Wealth Taxation as a Potential Remedy for Excessive Capital Wealth Inequality» argues, that social services, such as education and health are distributed more equally than income. Thus, when we include education and health into a wider view of economic resources it reduces inequality. However it will lead to insignificant changes in the rating of countries. Consumer taxes extend inequality, but not so much as calculation of social services which narrows it.

A progressive scale of taxation has economic grounding and is applied in many countries. There are few examples of flat scale of taxation, currently about 29 countries in the world use such wealth taxation scheme of individuals' income. These include as examples Russia, Estonia, Lithuania, Latvia, and Romania. Nearly all the countries OECD and countries of Asia apply a progressive scale of taxation or its analogue. For instance, in France taxation is 56%, in the USA 15-35%, in Germany 15-45%, in China 5-45%, Czech Republic – 15-32%, and Poland – 19-50%.

The arguments for progressive taxation include: reduction of the income gap between rich and poor, and equalization of social services for people with low and high income.

In countries of the CIS a progressive scale of taxation was in use prior to the beginning of the 21th century. In 2001 Russia transitioned to a flat scale of taxation; followed by Ukraine, Georgia, Kazakhstan, Kirgizstan and Belorussia. They were then joined by Bulgaria, Rumania, Slovakia, and Chernogoria. It is necessary to stress that a flat scale of taxation is presented in the countries with a lower developed economy and weak administrative taxation.

Currently the necessity of progressive taxation is being lead by Kazakhstan

and Russia. There are numerous reasons for this, but the main argument in favor of progressive individual income tax lies in the principle of social justice. In other words, those who get more income may, to some extent, carry more tax load and be of more use to their society than the one with low income.

A bill with 10, 15 and 20% tax rate has been prepared in Kazakhstan. According to the State Center of Pensions Payment, 98% of the working population receives a salary which does not exceed 350 thousand tenge per month. Thus, according to officials, the proposed taxation threshold is wide enough to not affect the vast majority of the population. It can be assumed that with the introduction of new tax rates, the change would concern only 2% of individuals whose salary exceeds a threshold of progressive taxation. In this case their salary would be taxed in steps – a part of their salary at 10%, a part at 15 %, and a part at 20%. According to the data provided by the State fund on payment of pensions, out of 5.3 million addressees of pensions, only 101 thousand people received a salary over 350 thousand tenge and, accordingly, fall under the proposed progressive scale. From people of the given category more than half (about 66 thousand) have incomes up to 600 thousand tenge, and their tax increase, by calculations of experts, will increase by 2.1%.

Thus, only 8.6 thousand individuals receive an income more than 1 million tenge per month. To implement this in a population ranging in size of incomes of 100 thousand, the richest receive the incomes equal to cumulative incomes of 2.5 million people receiving small wages. That is 100 thousand people earn 25 times more than 2.5 million. Certainly, these figures visually reflect the large inequality in income distribution in the country. But we shouldn't forget that until now, despite a flat scale, not all the income from earn-

ing on the black market is included. It is necessary to consider that employers pay at their own expense from the same wage fund of employees of the social tax at the rate of 11%, plus each worker pays 10 % as obligatory pension insurance. In totality we can speak about rather high taxation of individual incomes. «Therefore to the employer with workers at increase of tax loading from one and the same economic object of taxation there is a point to think over, and there is always the a way to come to agreement» [5].

Disputes on efficiency and fairness of a flat scale of taxation will continue, but I will argue that the transition to a uniform rate of income tax in 2007 was a process of simplification of the tax system that made it in this area simple, clear and accessible to the majority of taxpayersth. In such a situation a person can accurately count how much he or she earns and how much he or she will pay in taxes. Under a weak tax administration it is very difficult to state that a progressive scale will lead to increases in tax collection. An open declaration of incomes is rare in Kazakhstan and the reliability and accuracy of tax payment is an extremely difficult and labor-consuming problem.

Even now under the current "simple" scheme of individual income and property taxation, part of it remains uncollected.

Finally, the introduction of a progressive tax rate on individuals at this stage of economic development in Kazakhstan is untimely and ineffective. It is unlikely to improve budget revenues, reduce inequalities in income, or stimulate the development of enterprises.

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INTERNATIONAL LEGAL ASPECTS OF THE LEGAL REGULATION SYSTEMS FOR INVESTMENT ACTIVITY

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International law treaties within the law system are paid great attention to. This is explained by the fact that a law treaty regulates most international legal relationships, and the law treaty originates from the times of Spinoza and Grotius, while the national law treaty theory is still being developed, which is connected with the development of a civil society, legal state, and market relations.

At the present moment international law treaties are the main source of investment law. At that most of them are bilateral remuneration and reciprocal investment protection agreements. Only two of the agreements have universal meaning: Convention on the settlement of investment disputes between states and citizens of other countries (Washington, March 18, 1965) and Convention on establishment of a multilateral investment guarantee agency (Seoul, October 11, 1985), which were ratified by the Republic of Kazakhstan. The Washington Convention established the international order of settlement of disputes between the state on the one hand and a citizen and/or a legal entity of another country on the other hand through the establishment of the International Center for the Settlement of Investment Dis-

putes (ICSID). The ICSID mission is to provide structures for the application of arbitration in connection with investment disputes.

The mission of the Multilateral Investment Guarantee Agency (MIGA), established by the Seoul Convention, is to stimulate the investment flows between the MIGA member countries and especially to the developing countries, thus contributing to the activity of the World Bank, International Finance Corporation and other international development financial organizations. For these purposes MIGA provides guarantees, including co-insurance and recurring insurance against non-commercial risks concerning foreign investments on the territory of the developing countries. The non-commercial risks covered by the Seoul Convention include: a) conversion of currency; b) expropriation or similar actions; c) agreement violation; and d) war and civil disturbances. Thus, the Washington and Seoul Conventions only apply to two particular issues: consideration of investment disputes and foreign investors insurance and as a consequence cannot provide comprehensive regulation of international investment relationships.

Within the scope of international legal regulations, regional level regulations are realized in accordance with the following agreements – CIS countries Agreement “On collaboration in the sphere of investment activity” as of December 24, 1993. Among bilateral agreements, which are the most flexible tool of investment activity regulation, it is especially worth mentioning Agreement on reciprocal remuneration and protection of foreign investments. The main aim of these agreements is in providing equally favorable conditions for capital investments, establishing the possibility for unimpeded income share exportation and non-commercial risks guarantees.

International legal investment protection is more effective for attracting investments than consolidation of similar guarantees in the national law. But, nevertheless, another component defining foreign investment regulation is a national legal one. However, despite investment law development, unfortunately, there are still multiple gaps and problems remaining. Thus, we cannot help mentioning, that there is still no effective legal foundation for practical application of Investment Law of the Republic of Kazakhstan and international law treaties, ratified by the state. According to Sokolova T.V. “another unsettled issue is establishing the basis of normative legal acts and developing a program for foreign investments insurance by means of legal and political risks decrease guarantees” [1, p. 41].

Gaps of such type, in our opinion, demonstrate to the investors the interest of the state or lack of interest of the state in attracting and protecting investments and the investor. Under present time conditions the norm of state investment attractiveness evaluation and that of investment security is determined by the level of investment law development, the evaluation basic element being existence of legal acts, providing preferences and guaran-

tees, both legal and financial, for investors working in economy priority sectors. We have to state the fact that it is not sufficient to have general declamations since national and foreign investments inflow requires existence of legal, economic and political stability. Besides, absence of integral state policy of foreign investment attraction makes a negative impact, in particular, investment priorities by sector and types are not consolidated by the law, and mechanism of providing guarantees, especially concerning the property right, are not defined [1, p. 241].

Another important factor is law enforcement practice, which, at the present moment, is quite negative towards investment activity, beginning with pseudo bankruptcy and ending with failure to execute court decisions and legal acts.

Analysis of main stages of investment law development also demonstrates that another problematic issue is incorrect interpretation of law and its norms. From this point of view we share that opinion of Abdrassulov Y.B., according to which “the reason for that is the fact that law enforcement is getting more and more complicated due to rapidly developing socio-political and socio-economic relationships in all states”. Emergence, on the one hand, of new states on the map of the world, radical changes in the constitutional system in many other countries, and, on the other hand, an active process of the world and regional integration conditioned the necessity of development of new approaches in interpretation and application of legal norms which should be based on absolutely different criteria of interpretation results truth considering priority of human rights and freedoms, new methods and techniques of legal norms content disclosure. Norms interpreting is one of the traditional problems of legal science, since interpretation of legal norms is a process which takes place in any case when it is necessary to determine the meaning of le-

legal statutes. Law interpretation entails legal consequences not only in the sphere of law enforcement but also in application of rights in general. Moreover, interpretation goes beyond the scope of law enforcement, since interpretation is also important in the process of lawmaking, scientific and scholarly law analysis [2, p. 11].

Elements of improvement of active law of the Republic of Kazakhstan that should be among the basic ones are the following: adaptation and unification of norms of the active law of the Republic of Kazakhstan to factual participation in international investment organizations, increasing the number of bilateral and multilateral agreements on guarantees and reciprocal investment protection, revision of the system and mechanism of state support for national and foreign investors, determination of possible latent risks which emerge during investment projects insurance, detailed regulation of the meaning of investment project business plan, its structural elements, standards, legal peculiarities of its realization as a basic stage of investment designing, reconsideration of investment disputes settlement procedures, adopting by the Republic of Kazakhstan of all international mechanisms of investment disputes solving. Undoubtedly everything listed above is just a part of main elements of providing stability for the Kazakhstan legal system in the sphere of investment activity.

From the legal point of view the main problem of ensuring favorable investment climate is a stability of legal regulation, which assumes legal consolidation of long-term guarantees for the investors bringing their capital into the economy of the country [3, p. 20].

While creation of a favorable investment climate largely depends on the state and is realized through the national legislation, legal guarantees of investment contract observance, dispute settlement, and also expropriation (nationalization and

requisition), subrogation are regulated by international treaties ratified by Kazakhstan.

What concerns national legislation, as early as in 1997 domestic scientists stated that investment law of the Republic of Kazakhstan was based on a wrong methodological principle – granting discounts to selected investors of the state agency's choice (selective support), while recent years legislation in the sphere of market economy and investment activity was built on a reverse principle: granting equal opportunities for all investors, at that this granting of opportunities should be of an automatic character.

Tax privileges should be mentioned separately. The main principle of tax legislation is its universal character. Active law came out against individual tax privileges. Making amendments to Tax Code undermined this principle and led to emergence in the legislation of the republic of Kazakhstan of "contractual taxes" (which are still existent), which resulted inclusion into the contracts of some clauses contradicting the Constitution of the Republic of Kazakhstan and its laws. Earlier Kazakhstan made agreements with foreign investors, part of which came into force prior to adoption of the Constitution in 1995. This resulted in the fact that all changes in Kazakhstan legislation which concerned tax and customs did not apply to investors (mostly in the sphere of subsoil usage), since all references were made to the contracts signed (for example, according to the contracts discounts were granted by the Government, which did not have due competence in providing such discounts). Kazakhstan, in order to guarantee observance of the previously signed contracts, includes into all newly adopted legal normative acts clauses about non-proliferation of legislation norms on previously signed investment contracts. Meanwhile, granting individual tax privileges resulted in some confusion. Such contradiction divided all

domestic lawyers into two opposite camps: some of them believe it to be wrong since a contract is a private law, and it is appropriate to reason its relation to a public law [4, p. 5], i.e. with tax and customs legislation of the country, but private law could not and cannot regulate, say, tax relationships. That means in their opinion it is the legal aspect of cooperation with investors that required conceptual examination. Others believe that in this complex situation there is an only possible way out: when the state violates its civil and legal obligations or places on contractual non-state legal relationships participants of demands illegally infringing their interests, the latter should be provided with the opportunity to protect such interests including by means of certain international treaties of the republic.

We believe that private law obligations of the state in investment contracts should be executed by all means. What concerns the terms of the agreement which contradict public law norms (taxation and etc.), the state should take measures to provide observance of law and maximum observance of incurred obligations within the scope of a new Tax Code.

International legal investment regulations are realized in accordance with bilateral and multilateral agreements.

One of the major multilateral international agreements is a Washington Convention on settlement of investment disputes between states and citizens of other countries adopted on March 18, 1965, which lead to establishment of International Center for the Settlement of Investment Disputes (ICSID), and adoption of New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958), Energy Charter Treaty (1991), Convention on establishment of multilateral investment guarantee agency (Seoul Convention, 1985). Kazakhstan joined conventions listed above several times (the Republic of Kazakhstan Law as

of June 26, 1992 #1433-XII “On membership of the Republic of Kazakhstan in IMF, IBRD, International Finance Corporation, International Development Association, International Investment Guarantee Agency, International Center for the Settlement of Investment Disputes”, the Republic of Kazakhstan Law as of December 6, 2001 #2644 “On membership of the Republic of Kazakhstan in IMF, IBRD, IFC, International Investment Guarantee Agency, International Center for the Settlement of Investment Disputes, EBRD, Asian Development Bank, Islam Development Bank”). Besides, Kazakhstan has signed multilateral international regional agreements – Multilateral international agreement of CIS countries on investment activity cooperation (1993), Multilateral international convention on protection of CIS investor countries rights (1997).

With the adoption of Investment Law of the Republic of Kazakhstan on January 8, 2003 there emerged a problem of investment disputes settlement, the investment dispute settlement procedure was not consolidated in the legislation.

A serious drawback with determining investment dispute in our opinion is exclusion from the definition of the notion of non-contractual disputes between the investor and the state (authorized state agency). According to the prior Law on International Investments such disputes are referred to as investment disputes, at that this regulation is contained in Washington Convention and many other bilateral international agreements, ratified by the Republic of Kazakhstan, which according to art. 4 of the Constitution of the Republic of Kazakhstan have a priority over the norms of Kazakhstan legislation.

Art. 9 of the active Law changes the order of investment disputes settlement, stipulated by art. 27 of the prior investment law. The mentioned article of the prior law, firstly, uses a broader invest-

ment dispute notion; secondly, permits all investment disputes to be settled in arbitration bodies; thirdly, provides the investor with a priority in choosing the dispute settlement body. It is also necessary to mention that these rules conformed to Energy Charter Treaty as of December 17, 1994 and many other bilateral international agreements ratified by the Republic of Kazakhstan.

From the international law theory and practice point of view the principle, in accordance to which national investment laws can determine obligatory arbitration procedures without choice, is beneath criticism. Clause 24 of the World Bank Governing Council report, which is the addendum to Convention on investment disputes settlement, runs: “a host State might in its investment promotion legislation offer to submit disputes arising out of certain classes of investments to the jurisdiction of the Centre, and the investor might give his consent by accepting the offer in writing”.

Lack of choice opportunity concerning investment dispute settlement in the Investment Law of the Republic of Kazakhstan does not allow investors appealing to International Center for Investment Disputes Settlement. Thus, it results in a paradoxical situation: Kazakhstan joined to Washington Convention; however the investors have no opportunity to appeal to it, since the Law has no reference to it.

International investors' rights are protected by means of bilateral international agreements. Signing such international treaties, member countries take an obligation to protect rights of investors of the other state – the other party of the agreement. Foreign investor at the same time receives from home state guarantees of investor's rights protection on the terri-

tory of the other country – member of this international treaty.

Thus, at the present time, problems of regulation of investment activity in Kazakhstan has grown in number, since the state, trying to provide equal investment regime for both foreign and domestic investors, i.e. trying to raise domestic investors to the level of foreign ones, reduces legal guarantees for domestic and foreign investors, which were previously stipulated by the prior laws.

Active investment law created a problem with investment disputes consideration and settlement since it assigned the priority in investment disputes settlement to the court system of the Republic of Kazakhstan. At the same time one of the conditions for creation of a favorable investment climate is international legal investment protection which includes the autonomy of bodies, considering investment disputes, from jurisdiction of the states receiving the investments.

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THE COURTS AND JUDICIAL COMMUNITY MANAGEMENT

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In the Republic of Kazakhstan the current democratic processes in the society, at a modern stage of constitutional development, caused the necessity of further development in the effectiveness of the justice system.

Judicial power is one of the main components of the mechanism of a modern democratic and legal state. The basic principle is the division of power between legislative, executive, and judicial branches. All three branches function independently.

The effectiveness of judicial power and the realization of its human rights function depend on the specific, economic, political, and legal conditions, under which it functions [1].

The problems of judicial community management are topical issues at the modern stage of the judicial system development and functioning in the Republic of Kazakhstan. The central body in the process of management is the public association "The Union of Judges of the Republic of Kazakhstan". It is a non-government, self-financing, and non-commercial organization formed at the First Congress of the Judges in 1996 on the initiative of the group of judges. It works for the purposes of realization and protection of the judicial community's interests. The union works according to the following principles of voluntariness, equality of the members, democracy, self-government, legality, accountability, and publicity. Today more than 95 per cent of judges in Kazakhstan are the members of this public organization. According to the regulations of the public organization the membership is on a voluntary basis. The members of the Union may be active judges, retired judges, or pensioned-off judges [2].

The goals and objectives of the Un-

ion are the following: determine the judicial community position in the solution of important legal problems; consider actual problems of courts' work and judges' status; strengthen the authority of the judicial power; ensure compliance with the Judicial Ethic Code; hold and participate in scientific-practical conferences of judges; further the strengthening of court's independence and judicial authority; ensure social security and the judicial self-government development; take part in the discussion of the problems of the judicial practice and legislation improvement; participate in the judges' arrangements of the professional level improvement; evaluate independently the projects of laws and other normative acts; develop international relations with the judicial communities of other countries.

The public association works in the whole territory of Kazakhstan. Its structure is composed from different branches formed according to the territorial and corporative principles. The branches work in accordance with the regulations approved by the Central Council of the Union of Judges.

There are Commissions on Judicial Ethics created on the premises of the Union of Judges' branches. They operate according to the regulations and the Judicial Ethics Code.

The supreme organ of the Union of Judges is the Congress of Judges called not less than once per four years. The Congress elects the Chairperson of the Union of Judges who at the same time is the Chairperson of the executive organ - the Central Council of the Union of Judges.

The source of financing is initiation and annual membership fee. Money means could also be formed from voluntary contributions, proceeds from lectures, exhibi-

tions, sport and other events, profits from production and other activities [3].

The Union of Judges actively participates in realization of the projects together with the following international organizations: USAID, OSCE, and German Society on Technical Cooperation (GTZ), UNDP, and others. The Union of Judges and International Foundation for Protection of Freedom of Speech "Adil Soz" take part in the project of ongoing forum "Judicial Power and Mass Media". The most important is the project of the European Union "Judicial and Legal Reforms Support in the Republic of Kazakhstan" (since February 15, 2010).

The Union of Judges of Kazakhstan has been the member of the International Association of Judges since November 2004 according to the Resolution of the 47th Annual Meeting of IAJ (Valle de Bravo, Mexico).

The Union of Judges of Kazakhstan together with the Supreme Court carries out a significant work for the judges' professional development, takes part in the educational processes, annually announces "The Best Judge of the Year" competitions, and holds international legal conferences and trainings.

The Union of Judges of Kazakhstan carries out its activity on the basis of the central council work regulations approved by #2-1 Resolution of the Central Council of the RPA "The Union of Judges of the Republic of Kazakhstan" dated February 5, 2010.

It also should be mentioned that as an organ of the judicial community the Judicial Ethic Commission is of a great importance. The Commission works on the basis of the Regulations approved by # 7 Resolution of the Central Council of the Union of Judges of the Republic of Kazakhstan dated February 5, 2010. The goal of the Commission is the concern for the judicial community purity. The subject of the Commission activity is the observance

of moral and ethic norms and rules of behavior stipulated by the Judicial Ethic Code. The commissions are formed and function under the Union branches. The issues of observation of the judicial ethic norms by the Chairperson and the chairpersons of boards of oblast courts are considered by the Commission of the Supreme Court Judges' Union Branch.

The commission is formed by the corresponding branch of the Union at the conference. The conference elects the Commission for the term of two years by means of secret vote from the members of the Union registered at the corresponding branch of the public association. Any member of the Union may be elected to the Commission. The quantity of the Commission is determined by the conference. The Chairperson and the chairpersons of the boards of the Supreme Court of the Republic of Kazakhstan, the chairperson of the boards of oblast courts, the members of the Supreme Judicial Council and Judicial Panel, the members of the disciplinary and qualification boards cannot be elected to the commission. Commissions may consider the materials, requests, complaints about the Judicial Ethic Code violation by the judges of the branch, on its own initiative and on the statements and complaints of citizens, officials, and organizations. The Chairperson of the Supreme Court, the chairpersons of oblast courts, the heads of the Supreme Judicial Council of the Republic of Kazakhstan and the heads of the Judicial Panel, the chairpersons of the disciplinary and qualification boards may apply to the Commission with the request to conclude if one or another action of a judge or his/her personal behavior is the violation of the Judicial Ethic Code. The reason for the consideration of the case of judicial ethic violation may be the information in mass media, the reports of public prosecutors, and other official documents, requests and complaints of citizens [4].

Within the context of the discussed topic, the problems of judges' image improvement and justice administration effectiveness seem to be of great importance. That is why it is necessary to consider some aspects of the judges' image improvement program approved by the plenary meeting of the Supreme Court of the Republic of Kazakhstan dated March 20, 2003. The given program aims at the realization of the Concept of Legal Policy and determines the priorities directed at the formation of positive public opinion about court work and at further development of their openness and accessibility for citizens and mass media. The program reflects main informational, organizational, cadre and legal arrangements aimed at the strengthening of the images of judges and courts in the republic.

In the country there created a judicial system able to ensure the effective protection of rights, freedoms and legal interests of the citizens and organizations. One of the results of the ongoing legal reform is the consolidation of judicial power within the system of state mechanism and real independence of courts from executive organs.

At the same time, in the society there is no objective and full information about the ongoing judicial reform, its results and problems, the work for the judicial ethic norms violation eradication, and the fight against corruption. There are still some problems with real executions of judgments and some cases when lawful decisions of the court are criticized in public. The real equality of the parties and adversary nature of the judicial process are not ensured in full. Thereupon, it becomes evident that the judicial system's image increase is impossible without the improvement of quality and work of the courts. The population is in need of good legal aid especially in remote rural areas. The issues of courts' peopleware are not solved. The professional level of judicial

candidates is still low. The following problems – non-compliance with the constitutional requirements to provide housing for judges, insufficient material and technical levels of judicial session halls and transportation – are still taking place nowadays. There are no constant relations with mass media, i.e. full and timely information about positive results of courts' activities and the important role of justice. For the purposes of objective media coverage of the judicial system's activities it is necessary to develop mass media and print media in the country.

One of the important levels of legal policy and the mechanism of its realization is the training of personnel for judicial corps, increasing of educational and professional levels of judges, and the probation of candidates for judges at courts. Taking into account the significance of justice the issue of additional financing for judges' internship with their work being discontinued is of great importance now. Nowadays there are specialized educational institutions under the state organs. Their goal is professional development of the judicial staff and professional training of young specialists. One of the important events is the foundation of a special educational institution under the Supreme Court – the Institute of Professional Development of Judges and the Workers of the Judicial System. The strategy of the judicial education includes continuing education of judges, tutorship, mentorship, distant education, and others. As it is already known, the goal of the judicial mentorship is to develop the judicial culture, independence and ethic behavior of judges.

Therefore the development of the judicial mentorship in Kazakhstan is one of the priorities of the Union of Judges. The Central Council of the Union takes the decision to recommend its branches to promote the mentorship development in local courts, to monitor the mentorship

program effectiveness within the framework of the realization of the judicial education strategy, and to make suggestions on its further development.

When studying the given topic it is necessary to emphasize that the judicial power in the Republic of Kazakhstan personifies the supremacy of law, strengthens and reveals its rich potential. Any judge applying law practically faces a lot of organizational and technical problems. Nowadays one of the main problems of the quality of justice administration is the discrepancy between the number of cases and the number of judges. As a result of it, judges have enormous working load. It is necessary to emphasize the idea of the judge-assistants institute.

In the twenty-first century the judicial system is undergoing great changes. Now it is necessary to increase the number of judges and court staff. As a result of it, the quality of work will be improved in spite of the increasing volume of it. It also should be mentioned that there is an acute shortage of the position “judge assistant”. A judge assistant could do a great part of simple work such as preparation of the projects of judicial acts (decisions and resolutions). A judge could concentrate on the preparation of complicated cases to trial and their decisions. He or she would have more time for the detailed examination of the current normative-legal acts. At the same time we are quite sure that judge assistants are to work in district courts.

High demands to the candidates for the position of a judge assistant allow to form highly-qualified personnel helping judges in considering cases and preparing projects of procedural documents. The given position allowed to decrease the workload of judges and to form cadre reserves as the world precedents show that judge assistants were the source of judicial personnel [5, p. 12].

Analyzing the historical aspects of introducing the position of a judge assis-

tant it should be mentioned that the institute of judge assistants was formed in the USA more than a hundred years ago. The judge of the US Supreme Court Horace Gray, appointed in 1881, introduced the practice to employ the graduates of the Law Department of the Harvard University with honor degrees for the position “Personal Secretary”. In 1885 the Attorney-General of the USA in his report suggested the Congress to codify a right of the US Supreme Court judges to use “the services of personal secretaries”. In 1886 the Congress approved the position of a judge-assistant. It is necessary to point out that the US judges have a free hand in determining the functions of their assistants as they are guided by a common goal – to make their work efficient as much as possible. Both judges and judge-assistants value this flexible approach.

The similar institute exists in Japan. A judge assistant is to prepare the theoretical and practical materials for the case.

The Supreme Court of the Republic of Kazakhstan is now looking into the issue of the judge-assistant institute functioning. It is necessary to mention that scientists and law-practitioners are not of the same opinion on the issue. S. Sabikenov considers the institute of judge-assistants to fit in with the executive organs but not with the judicial ones.

Taking into account the nature and content of the justice it is thought that courts are in need of not assistants but advisers who work for the judicial organs and are not the maintenance personnel. In the opinion of S. Sabikenov, it is the best way of training the candidates for the judicial work as a judge-adviser preparing the materials for the court examination together with a judge at the same time is mastering the practical skills of the judicial work [6, p. 7].

In connection with the introduction of the institute of judge-assistants in Kazakhstan it is necessary to differentiate the

responsibilities between a judge-assistant and a procedural figure “court reporter”.

Judge-assistants are to be considered as the judicial candidates, the reserve for the judicial corps especially when they have worked in the position more than three years.

On the other hand, taking into account the fact that judge-assistants are considered the reserve for the judicial corps it is very important where a judge-assistant has worked before court.

To form the corps of judge-assistants it is more effective to involve young and talented graduates and recommend the best workers for judicial positions. The right to work as a judge is to be deserved by high professional level, psychological stability, and irreproachable behavior at the discharge of the duties [7].

It is recommended to introduce special training programs for judge-assistants up to the standards of master school including the system of periodic tests. In this way the state mechanism of training the judicial candidates will be realized.

Thereby, the institute of judge-assistants will ensure the effective implementation of the court’s functions, will exclude the red tape at the consideration of legal cases, and will favor the optimal formation of the judicial corps. The institute of judge-assistants will release judges from the functions irrelevant to justice. All these will increase the quality of justice.

The efficiency of the judicial work is also determined by a competent organization of the judicial system structure. The reform of the structure of the judicial bodies is necessary to be mentioned in this connection. Before November 3, 2010 these functions were carried out by the court administrator.

It is known that one of the main instruments of ensuring the organizational activity of a state organ is the correct strategy under the conditions of dynamically developing processes, timely and correct

decision-making.

Meanwhile, the lack of the organ ensuring concerted actions of the departments of the Court Administrator, local courts, and territorial districts of bailiffs and exercising control over the implementation of main documents led to the decrease of the organizational activity of the Court Administrator of the oblast.

According to #1093 Regulations on the Department for ensuring courts’ activities under the Supreme Court of the Republic of Kazakhstan (the apparatus of the Supreme Court of the Republic of Kazakhstan) dated November 3, 2010 the Department for ensuring courts’ activities under the Supreme Court of the Republic of Kazakhstan (the apparatus of the Supreme Court of the Republic of Kazakhstan) is the authorized body on the organizational and logistical support of the activities of the Supreme Court of the Republic of Kazakhstan and local courts with territorial subdivisions (registries) in the oblasts, the capital and major cities.

Under the organizational and logistical support of the courts’ activities the above-mentioned Regulations means organizational and logistical measures aimed at the formation of the conditions for justice administration. The Department works in accordance with the Constitution of the Republic of Kazakhstan, the Constitutional Law of the Republic of Kazakhstan “About Judicial System and Judges’ Status in the Republic of Kazakhstan”, the laws of the Republic of Kazakhstan, the decrees of the President and the Government of the Republic of Kazakhstan, other regulatory legal acts, the given Regulations, and the orders of the Chairperson of the Supreme Court of the Republic of Kazakhstan. The Department and the registries form a common system of the bodies for ensuring the activities of the Supreme Court of the Republic of Kazakhstan and local courts. The Department and the registries are legal entities having their own

seals with their names and bank accounts in accordance with the legislation of the Republic of Kazakhstan. The Department and the registries start civil law relations for their own.

The main objectives of the Department are the organizational and logistical support of the activities of the Supreme Court of the Republic of Kazakhstan and local courts. The Department within the framework of its authorities carries out the following functions:

- 1) organizational and logistical support of the courts;
- 2) organizational support of the courts' activities on justice administration;
- 3) taking measures in accordance with the legislation for financial and logistical support of the Qualification Committee under the Supreme Court of the Republic of Kazakhstan;
- 4) organizational and methodological guidance of bailiffs' activities;
- 5) preparation of the information for the Administration of the President of the Republic of Kazakhstan about judicial statistics, the state of justice administration, organizational and logistical support of the Supreme Court and equivalent courts' activities;
- 6) people ware ensuring in accordance with the legislation;
- 7) organizational support of the work of the Chairperson of the Supreme Court of the Republic of Kazakhstan, the Court Jury, The Republican Disciplinary and Qualification Collegium of Judges, and the bodies of the Supreme Court of the Republic of Kazakhstan;
- 8) ensuring of the execution of the decisions taken by the Chairperson of the Supreme Court of the Republic of Kazakhstan, by the plenary session of the Supreme Court of the Republic of Kazakhstan;
- 9) making suggestions to the Chairperson of the Supreme Court of the Republic of Kazakhstan on the formation,

reorganization or abolition of local or other courts;

10) by agreement with the Chairperson of the Supreme Court of the Republic of Kazakhstan determining the number of judges for a local and another court on the basis of the report of a Chairperson of a corresponding court within the limits of the staff list approved by the President of the Republic of Kazakhstan;

11) developing of the standards of working loads of judges and judicial workers;

12) organization of construction, repairs, and techniques of buildings and other objects of the judicial bodies;

13) control over the expenditures of registries and other lower organizations of the Department, audit of their financial and economic activity;

14) conducting of judicial statistics;

15) conducting of judges' and judicial workers' personal records;

16) in accordance with the legislation material and social provision of judges including retired judges;

17) participation in the development and expertise of the projects of regulatory legal acts within its jurisdiction;

18) informational and legal support of the judicial system, systematization and codification of the legislation;

19) organization of records management and archives' work;

20) organizational support of the interaction of the Supreme Court of the Republic of Kazakhstan and other state bodies, the courts of other countries, international and other organizations, and other functions [8].

Thus, one of the main components of a legal state, the guarantee of its democratic development is the judicial power. The state of the judicial power influences greatly the attitude of the citizens to modern legal policy, to the level of society's confidence in the government, i.e. the quality of justice administration – one of

the main indices of country's legal development. The given idea was emphasized in legal literature more than once, "Independent judicial power becomes the core of the legal state and constitutionalism, the main guarantee of the people's freedom". That is why it is necessary to improve legal institutes influencing the process of justice administration.

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THE POSITION OF PRESIDENT IN THE SYSTEM OF STATE ADMINISTRATION BODIES OF THE REPUBLIC OF KAZAKHSTAN

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The position of president as the head of the state and the executive power appeared for the first time in the United States of America. Nowadays the post of the president of the country is established in many countries. Presidency now is an element of the political systems of many countries. A president is the head of the country in 150 countries out of 216. All the rest of the countries have any monarchic form of government.

In a presidential republic the president has wide powers and a peculiar position. In the opinion of Sapargaliyev G.S., a presidential republic is characterized by the following: the government is responsi-

ble before the President who appoints and releases the members of the government from office; the President has the right to make proposals on the legislation, to sign or to put a veto on the laws adopted by the Parliament; to issue decrees having the power of laws; the President is the Commander-in-Chief of the Armed Forces; the President has the right to convoke an extraordinary session of the Parliament, to dissolve the Parliament, and to call the premature elections of the Parliament; the President has the right to call a referendum, to announce the state of emergency, etc. [1].

The analysis of the Constitution of

the Republic of Kazakhstan shows that general features of the presidential republic are reflected there with some transformation. According to the theory of the state power division into three branches, each state organ has its own place in the complex system of the state bodies of the Republic of Kazakhstan. It should be mentioned that in the Constitution of the Republic of Kazakhstan dated 1993 the article about the President goes after the article about the Supreme Council [2]. It means that the Supreme Council has wide powers and the republic is gradually becoming a parliamentary one. In accordance with the current Constitution of the Republic of Kazakhstan the President takes the first place in the system of state power bodies. This consolidates the constitutional proposition about the establishment of the presidential system of government in the Republic of Kazakhstan.

After the voluntary dissolution of the XII Convocation Supreme Council of the Republic of Kazakhstan and temporal delegation to the President of some authorities of the legislative organ the President efficiently adopted a great number of decrees having the force of laws and common laws on the important issues of the state life. The given fact is very important for the consolidation of the presidential form of government.

The basis of the characteristics of the legal status of the President is Article 40 of the Constitution. It defines the place of the President in the system of the state power organs. In accordance with the given article the President is the head of the state. The president is the highest official representing Kazakhstan within the country and in international relations. The legislator takes the President out of the state power branches giving him wide powers. At the same time the President is to ensure the concerted interaction of all branches of state power.

The Constitution of the Republic of

Kazakhstan as well as the US legislation has the principle of the state power division into three branches: legislative, executive, and judicial. Each branch has its own authorities necessary and sufficient for its functioning. But in the Republic of Kazakhstan there are some state organs that cannot be referred to any branch because of their functional specific nature, e.g. the Procurator's Office, the Constitutional Council. In the USA almost all state organs are functionally distributed among the triad of power branches.

Only in the case of authorities delegation by the Parliament the President may adopt laws for a limited period of time. The President has no right to interfere in the execution of the judicial power. As to the executive power the President can take measures stipulated by law. The checks and balances system stipulated by the Constitution of the Republic of Kazakhstan does not allow the President to be above all the power branches. The President has no right to control the activity of the Parliament and the judicial power. In his status the President is closer to the executive power. But the President is not at the head of the executive power as it was according to the Constitution of the Republic of Kazakhstan dated 1993. In accordance with the Constitution of the USA the President is the head of the state and the head of the government at the same time. Thus, the President of the USA is the official representative of the executive power.

In accordance with the Constitution of the Republic of Kazakhstan dated 1995 the Government carries out the executive power and is at the head of the system of executive organs [3]. At the same time the Government reports to the President.

The President of the Republic of Kazakhstan is the symbol and guarantor of the unity of the people and the state power, inviolability of the Constitution, rights and freedoms of an individual and a citi-

zen. The President is the symbol of the unity of the people because the multiethnic people of the country elects him the Head of the state. The President of the Republic of Kazakhstan is elected by universal, equal and direct suffrage by the citizens of the republic in accordance with the Constitution (Article 41) the Constitutional law "About Elections in the Republic of Kazakhstan" [4].

According to the Constitution of the Republic of Kazakhstan the President is elected by universal, equal and direct suffrage under a secret ballot for a five-year term by the citizens of the republic who have come of age. One and the same candidate cannot be elected the President more than two times in a row, but taking into account the last amendments to the Constitution dated May 21, 2007 the given point does not apply to the first President of the Republic of Kazakhstan.

The Constitution defines main requirements to the President. Acting the head of the state and the higher official the candidate has to be of a mature age. It is stated that a citizen of the Republic shall be eligible for the office of the President of the Republic of Kazakhstan if he is by birth not younger than forty. The Constitution of the USA takes the view of the age qualification of thirty-five. In the countries with the minimum age qualification for the president's taking office there is no maximum permissible age. As the world precedents show the given approach is very reasonable as a person with good health becomes wiser and acquires political experience, managerial abilities, etc. Hence, in October 1998 the point about the upper age-level (65 years) of the candidates was abolished from the Constitution.

The Constitution of the Republic of Kazakhstan states that the presidential candidate is to be the citizen of Kazakhstan by birth. The same is in the USA.

One of the requirements to a future President of the Republic of Kazakhstan is

the following: he is to have lived in Kazakhstan for not less than fifteen years. The US legislature deals with the term of 14 years. The given requirement is rather reasonable as the presidential candidate must know the country, its people and history, its economy, and national peculiarities, etc.

According to the Constitution the President of the Republic of Kazakhstan must have a perfect command of the state (Kazakh) language. The requirement originates from the fact that Kazakhstan was formed on the primordial Kazakh land and one of the main conditions of preserving the Kazakh nation is the conservation of the language. The presidential candidate is to master the state (Kazakh) language perfectly. The Constitution of the Republic of Kazakhstan does not state national requirement to the candidate. A citizen of any nationality may be eligible for the office of the President of the Republic of Kazakhstan if he has a good command of the state language.

Free, direct, and alternative elections are the important landmark in the political life of Kazakhstan and in the development of the democratic principles of power formation. The Constitution of the USA also objectifies the democratic fundamentals of elections. For the period of more than two centuries the elections of the President of the USA have been conducted in an indirect way, i.e. with the assistance of electors. In Kazakhstan only the Parliament's Senate Deputies are elected in an indirect way. The difference between the system of presidential elections in the USA and the Republic of Kazakhstan is caused by different administrative and territorial systems of two countries.

The Constitutional law "About Elections in the Republic of Kazakhstan" dated September 28, 1995 contains some additional requirements to the presidential candidates. The presidential candidate must not be a priest as the Republic of Ka-

zakhstan is a secular state. The President, like any citizen, may practise or not any religion. But he cannot be a religious figure devoting to the service of any confession.

The presidential candidate must have an active electoral right and no criminal record (active by the time of registration). The candidate is not subject to the registration in the following cases: if within the period of one year before the registration he was made disciplinary answer for a corrupt perpetration; if within the period of one year before the registration he was imposed an administrative penalty for a deliberate wrongdoing.

The Constitution of the Republic of Kazakhstan determines legal fundamentals of presidential elections. The elections of the President are held on a regular basis. Regular elections of the President of the Republic are held on the first Sunday of December and do not coincide with the election of a new Parliament of the Republic. Off-year elections of the President of the republic are not held. The candidate who receives more than 50 percent of the votes of the constituents that took part in the election is deemed elected. If none of the candidates receives the above number of votes, a second round of elections is held between the two candidates who obtained the largest number of votes. The candidate who receives the larger number of votes of the constituents who take part in the second round of elections is deemed elected. The details of the elections order are regulated in the Constitutional law of the Republic of Kazakhstan "About Elections in the Republic of Kazakhstan". The Constitution stipulates the procedure of taking office by the nationwide elected President. The President of the Republic of Kazakhstan takes office from the moment of swearing to the people the oath in a ceremonial atmosphere in the presence of the deputies of the Parliament, the members of the Constitutional Council,

and the judges of the Supreme Court.

The President as a higher official does not always get the support and approval of all warring political parties. As a result there is an objective necessity of his all-round protection. The activity of the President may cause not only unfounded judgments but also statements discrediting his honor and dignity. The President and his status are to be protected from law-breaking statements. According to Article 46 of the Constitution of the Republic of Kazakhstan the President as the head of the state is inviolable. Attacks on the honor and dignity of the President of the Republic of Kazakhstan are prosecuted to the fullest extent of the law.

It also should be mentioned that one of the most important political institutes realizing the checks and balances system is the constitutional and legal responsibility of the President and the possibility of prematurely termination of his authorities. In accordance with the current legislation, particularly, with Paragraph 2 of Article 47 of the Constitution of the Republic of Kazakhstan, the President bears responsibility for the actions performed while exercising his duties and only in the case of high treason may be discharged from office by the Parliament. According to the Constitutional law "About the President of the Republic of Kazakhstan" dated December 26, 1995, high treason is defined as an intentional action committed with the purpose to undermine or weaken the foreign security and sovereignty of the Republic of Kazakhstan presented in the form of going across to enemy side during wartime or in the form of helping a foreign country to exercise hostile activity against the republic [5]. In the opinion of A.F. Suleymanov, some political scientists do not agree with the given point. In their opinion, the Constitution of the Republic of Kazakhstan should also include the responsibility of the President for felonies and intentional violation of the Constitu-

tion as it is stipulated by the constitutions of other civilized countries. The Constitution of the USA besides high treason includes the following reasons for the impeachment of the President: corruption and other serious crimes.

The Constitution of the Republic of Kazakhstan dated 1993 does not have the institute of the presidential release from office. It appeared in the Constitution of the Republic of Kazakhstan dated 1995. The given fact indicates the positive development of democracy in the republic. In the USA and in the Republic of Kazakhstan the procedure of the presidential release is rather complex. The President of the Republic of Kazakhstan may be prematurely released from office in the case of continued incapacity to perform his duties due to illness. In this case the Parliament forms a commission consisting of equal numbers of deputies from each Chamber and specialists of the respective areas of medicine. The decision of premature release based on the conclusion of the commission and that of the Constitutional Council confirming observance of the established constitutional procedures is adopted at a joint sitting of the Parliament's Chambers by the majority of no less than three-fourths from the total number of deputies of each Chamber. The release from office by other reasons has another procedure. As it is stated the President bears responsibility for the actions performed while exercising his duties and only in the case of high treason may be discharged from office by the Parliament.

According to Paragraph 2 of Article 47 of the Constitution, the decision to bring an accusation and conduct its investigation may be adopted by the majority of the deputies of the Majilis at the initiative of no less than one-third of the total number of its deputies. Investigation of the accusation shall be organized by the Senate and by the majority of votes of the total number of the deputies of the Senate its

results are transferred for consideration at a joint session of the Parliament's Chambers. The final decision of this issue shall be adopted at a joint session of the Parliament's Chambers by the majority of no less than three-fourths of the total number of the deputies of each Chamber, provided the Supreme Court concludes the validity of the accusation and conclusion by the Constitutional Council that the established constitutional procedures were observed. The failure to arrive at a final decision within two months from the moment of the accusation shall result in the recognition that the accusation against the President of the Republic is rejected. Rejection of the accusation of the President of the Republic in perpetration of high treason at any stage shall result in premature termination of the powers of the deputies of the Majilis who initiated the consideration of this issue. The issue of discharge of the President of the Republic from office may not be initiated in the period when the President is considering premature termination of the powers of the Parliament of the Republic.

The Constitution of the Republic of Kazakhstan dated 1993 stipulated the position of the Vice-President. The Constitution of 1995 did not stipulate the given position as the precedents showed its inexpediency. Nowadays in the USA there is the Vice-President though the main law of the country does not authorize the position with particular powers while the acting President is alive.

According to the current constitutional legislation in case of premature release or discharge of the President of the Republic of Kazakhstan from office as well as in case of his death the powers of the President of the Republic shall be transmitted to the Chairperson of the Senate of the Parliament for the rest of the term; if the Chairperson of the Senate is unable to assume the powers of the President they shall be transmitted to the

Chairperson of the Majilis of the Parliament; if the Chairperson of the Majilis is unable to assume the powers of the President they shall be transmitted to the Prime Minister of the Republic. A person who has taken the powers of the President of the Republic of Kazakhstan has no right to initiate amendments and additions to the Constitution of the Republic of Kazakhstan.

The Constitution sets the limitations to the performance of the duties of the President of the Republic of Kazakhstan. The President of the Republic of Kazakhstan shall not have the right to be a deputy of a representative body, hold other paid offices and engage in entrepreneurial activity. The President of the Republic shall suspend activity in any political party for the period he exercises his powers to exclude the possibility to put pressure on the legislature on the considered issues.

On July 20, 2000 a new Constitutional law "About the First President of the Republic of Kazakhstan" was adopted [6]. The given law determines the political and legal status of the first President of the Republic of Kazakhstan N. A. Nazarbayev as one of the founders of a new independent state – Kazakhstan, the leader of the people of Kazakhstan, and the guarantor of the Constitution. The law has the task to ensure the continuity of the main tendencies of the foreign and domestic policies of Kazakhstan and further social, economic, and democratic reforms on the country.

The Constitutional law "About the First President of the Republic of Kazakhstan" is an exclusive act adopted due to historic services of N. A. Nazarbayev to the country. The law gives the first President some rights for life. He can use them while exercising his duties and after the discharge. They are the following:

1. He has the right to address the people of Kazakhstan, state bodies and officials with the initiatives on the impor-

tant issues of state construction, domestic and foreign policy and security which are to be obligatory considered by corresponding state bodies and officials.

2. After the discharge from office the he has the right to speak before the Parliament of the Republic of Kazakhstan and its Chambers, at the sessions of the Government discussing important issues, to head the Assembly of the Peoples of Kazakhstan, to be the member of the Constitutional Council and the Security Council of the Republic of Kazakhstan.

The use of the above rights is a legal activity; preventing it shall be considered the violation of law and the guilty party shall be made answerable for it. On the occasion of N. A. Nazarbayev's services the decoration "Қазақстан Республикасының Тұңғыш Президенті Нурсұлтан Назарбаев" ("The First President of the Republic of Kazakhstan Nursultan Nazarbayev") and the annual State Prize for Peace and Progress of the First President of the Republic of Kazakhstan were established.

The law indicates the inviolability of the President. He is not responsible for the actions connected with the execution of his status except in case of high treason. The inviolability applies to his dwelling, office, personal and service vehicles, etc. The law stipulates the necessary measures of the presidential duties' execution. The given measures provide for communication, security, dwelling, vehicle, health service, and pension. The financing is at the expense of the republic budget.

It also should be mentioned that the powers of the President of the Republic of Kazakhstan are predetermined by the content of the presidential system of government. The President has wide powers stipulated by the Constitution and the Constitutional law "About the President of the Republic of Kazakhstan" dated December 26, 1995. The given Constitutional law includes:

1) Presidential powers in relation to the Parliament. The President appoints regular and extraordinary elections to the Parliament of the Republic; appoints seven Senate deputies for the Parliament's term of office; convenes the first session of the Parliament and accept the oath of its members to the people of Kazakhstan; proposes a candidate for the Chairperson of the Senate; opens the sessions of the Parliament; has the right to attend any joint and separate sessions of the Parliament's Chambers and be listened to; considers the address of the Senate or Majilis of the Parliament on the discharge of the member of the government for his failure to execute laws; in case and order stipulated by the Constitution is able to dissolve the Parliament.

2) Presidential powers in relation to the Government. The President appoints a Prime Minister of the Republic with the Parliament's consent; releases him from office; appoints to and releases from office its members, as well as forms, abolishes and reorganizes central executive bodies of the Republic which are not included into the Government; accepts the oath of the members of the Government; regularly hears the report of the Prime Minister on the main tendencies of his activity; presides at the meetings of the Government on especially important issues; charges the Government and its members; has the right to entrust the Government with the execution of the functions not stipulated by the Constitution and laws.

3) Presidential powers in relation to the Constitutional Council. The President appoints the Chairperson and two members of the Constitutional Council; releases them from office in accordance with the Constitutional law; applies to the Constitutional Council on the issue of the right elections of the President, the Parliament's deputies, and the Republican Referendum; on the issue of the conformity of laws, international treaties with the Constitution;

on the issue of the official interpretation of the Constitutional norms; on the issue of release from office.

4) Presidential powers in relation to courts and judges. The President upon the recommendation of the Higher Judicial Council appoints to and releases from office the Chairperson of the Supreme Court, chairmen of collegiums and judges of the Supreme Court; appoints the chairmen of oblast and equivalent courts, chairmen of collegiums and judges of oblast and equivalent courts.

5) Presidential powers in relation to public prosecution bodies. The President appoints the Procurator General of the Republic with the consent of the Senate; releases him from office; upon the recommendation of the Procurator General appoints to his Deputies and releases them from office; hears the report of the Procurator General on the state of law in the country.

6) Presidential powers in relation to the akims. The President upon the recommendation of the Prime Minister appoints the akims of the oblasts, major cities and the capital; within his competence assigns missions to the akims and hears their reports on the execution; releases them from office.

7) Presidential powers in relation to the all-nation referendum. The President adopts a resolution on conducting the all-nation referendum: 1) on his own initiative; 2) on the initiative of the Parliament; 3) on the initiative of the Government; 4) on the initiative of no less than two thousand citizens having electoral rights equally presenting all oblasts, the capital and major cities. On the initiative of the given subjects the President adopts a resolution 1) on conducting the all-nation referendum; 2) on the necessity to initiate amendments and additions to the Constitution, the Constitutional law, a law or a resolution on the issue without conducting the all-nation referendum; 3) on rejection

of conducting the all-nation referendum.

8) Presidential powers in relation to the state defense and security. The President acts as the Commander-in-Chief of the Armed Forces of the Republic. He appoints and replaces the highest command of the Armed Forces. In the event of a serious and immediate threat to the democratic institutions of the Republic, its independence and territorial integrity, political stability of the Republic, security of its citizens and the disruption of normal functioning of the Constitutional bodies of the state, the President shall have official consultation with Prime Minister and Chairpersons of the Parliamentary Chambers of the Republic and take measures, caused by a state of emergency on the entire territory or in particular areas of Kazakhstan, and immediately inform the Parliament of the use of the Armed Forces of the Republic; in the case of aggression against the Republic or immediate external threat to its security, the President shall impose martial law on the entire territory of the Republic or in particular areas, declare a partial or total mobilization and immediately inform the Parliament of the Republic to the effect.

9) Presidential powers in relation to the foreign policy. The President conducts negotiations and sign international treaties of the Republic; introduces international treaties to ratification to the Parliament; signs ratification instruments; introduces to the Parliament the issue on the denunciation of international treaties of the Republic. The President also carries out some other actions.

10) Ideological and scientific activity. The Constitution and laws give the President the right to adopt ideological and scientific documents. But this does not mean the President has to be the follower of any ideology. Ideological and scientific attitudes of the President are regulated by the Constitution. It determines the essence and the nature of the state, the principles

of its activity. The President assigns the main directions of the domestic and foreign policy of the state in accordance with the Constitution of the Republic of Kazakhstan. Therefore, the Constitution and the laws give him the right to adopt the documents determining the ideological and scientific fundamentals of the state. In accordance with the Constitution the President annually addresses the people of Kazakhstan with a message on the state of the country and main directions of the domestic and foreign policy of the Republic of Kazakhstan.

Thereby, at the modern stage of the constitutional development the place of the President in the system of state bodies is not assigned in any power branches. In Kazakhstan unlike the USA the President as the Head of the state stands above power branches. This fact allows him to effectively perform his duties and control all state bodies. In comparison with the constitutional and legal status of the President of the USA it should be mentioned that the attitude of the President of the USA to the executive power does not adversely affect the development of the country. Moreover, the grounds of the American democracy did not know another way of the President's performance of his duties and now have positive tendencies. The Presidential powers in the Republic of Kazakhstan have been forming for a long period of time and now they are wide enough for efficient implementation of the state policy.

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APPLICABLE LAWS IN THE SETTLEMENT OF INTERNATIONAL INVESTMENT DISPUTES: THEORETICAL AND PRACTICAL ISSUES

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The development of legal order in international investment disputes is a process, to which legal science should pay great attention under the conditions of the integration of Kazakhstan into the world economy.

Under investment dispute we understand a complex of legal relationships, occurring in connection with solving disagreement or seeking a rational solution to settlement of a disputable situation, which take place within the frames of investment activity.

Investment dispute considered in the context of legislation of a certain country (internal investment dispute) is a variety of civil law disputes. Analysis of Kazakhstan legislation shows that investment activity in Kazakhstan is a component and integral part of civil legal relationships, within the frame of which dispute settlements connected with investment activity are performed as civil proceedings. It would be fair to mention that “the array of legal directions, which constitute foreign investment legislation, is heterogeneous and includes norms of civil, administrative, financial, currency, customs and other laws”.

Nevertheless, specific character of investment disputes brings up the idea of a necessity to delimitate investment and civ-

il law disputes, at least for the research purposes. The criterion of delimitation of investment disputes from civil law disputes is the fact that investment disputes arise only in the process of investment activity. Investment disputes differ from civil law disputes in the fact that such disputes can be both national and international.

Under national investment dispute we understand the situation when there is a conflict between a domestic investor and its country in a certain investment activity issue, which is settled in accordance with the law chosen by the parties.

International investment dispute differs from national investment dispute in the structure of its subjects, since one of the parties of the dispute is a foreign one (foreign investor). Peculiarities of relationship between foreign investor, recipient of foreign investments, the country – recipient of foreign investment and the country of investor often lead to a complicated legal regulation of both the relations between the subjects mentioned and approaches to dispute settlement [1, p. 9]. The problem of choosing the law, applicable to material and procedural aspects of investment relationships with foreign interest indicates the autonomy of the parties in selection of applicable material and dis-

pute settlement law. Foreign investor interest in the investment process influences the peculiarities of disputes settlement.

Evidently the meaning of the international legal investment regime is in determining an acceptable combination of laws and duties for both investors and governments.

The notion of public policy started to form as early as the Middle Ages in the works of Roman Law researchers – glossators. Public order clause is contained in different forms in the legislation of almost all countries that have international private law codifications. It was also a part of Civil Legislation of the USSR and its republics, which was active in Kazakhstan prior to adoption of the Civil Code of the Republic of Kazakhstan.

First of all we need to clarify that we speak about public order clause or «order public», which is vested in Article 1090 of the Civil Code of the Republic of Kazakhstan [2] (hereinafter referred to as CC RK) in connection with foreign law norms application. Thus, foreign law is not applicable in cases when its application contradicts the law and order of the republic of Kazakhstan (public policy of the Republic of Kazakhstan). In such cases the Law of the republic of Kazakhstan is applied. But Clause 2 Article 1090 of CC RK specifies that rejection to use foreign law cannot be used based only on difference of political and economic systems. At the same time legal literature indicates that non-usage of foreign law based on public policy violation is possible only in “exceptional cases”. Each of such cases should have a solid basis and cannot just come to formal violation of national law norms.

On the whole the notion of public order (order public) has not yet been defined, which causes certain difficulties with its application.

In some countries it has not been decided yet which law should be applied in case foreign law is excluded due to public

order motives. Hungarian legislation stipulates applying the law of the country where the trial takes place, Austrian legislation stipulates applying Austrian law.

Additionally, we should consider the issue of public order clause in a civil proceeding, in connection with the Laws of Kazakhstan adopted on December 28, 2004: “On arbitration tribunals”, “On international commercial arbitration”, and “On making amendments to certain legislative acts of the Republic of Kazakhstan in arbitration tribunals and arbitration activity issues”.

Thus, state authoritative court can overturn the decision (or reject arbitration decision execution), if the court ascertains that arbitration decision or its acknowledgement and execution contradict public policy of the Republic of Kazakhstan (subclause 2) Article 425-3 of Civil Procedure Code of the republic of Kazakhstan (hereinafter referred to as CPC RK); subclause 5 clause 2 article 44, subclause 2 clause 2 article 31, subclause 2 clause 1 article 33 of the International Commercial Arbitration Law.

The notion of public policy is fixed in subclause 10 clause 2 of the International Commercial Arbitration Law, in accordance to which under public policy of the republic of Kazakhstan we understand the fundamentals of state and public system ascertained by the legislation of the Republic of Kazakhstan [3].

It can be noticed that the definition is different from one given in article 1090 of CC RK – fundamentals of law and order [2]. This notion is wider than fundamentals of state and social structure, and in case of disagreement CC RK norms will be applied. But, in principle, these two notions do not contradict each other: in any case – fundamentals (of law and order or system) and it does not automatically follows that a usual controversy to imperative legislation norms of the Republic of Kazakhstan can be admitted as contradicting

the public law.

On December 23, 2005 the Supreme Court of the Republic of Kazakhstan adopted normative resolution #10 “On court application of legislation norms concerning arbitration tribunals decision enforcement”, in which it emphasized the importance of public order clause and the necessity to limit this clause application. In accordance with clause 10 of the normative resolution, in particular, it is understood that application of the institution of public order is possible in exclusive cases when the enforcement of arbitration tribunal decision infringes the basics of law and order of the Republic of Kazakhstan.

Thus, public order (order public in French) can be determined as fundamental and social community integrity productive rules, requirements, norms, characterized by presence of moral and ethical platform and considered as a criterion of balance between private and public interests of social community actors. At the present moment we can witness the establishment of international public order (real international public), which concentrates common for the states standards of public-private relations on the one hand and certain state public order establishment of the other. This is the reason why using public order clause it is necessary to be guided by international public order.

Applying public order clause in court practice it is possible to proceed from the following principles:

- that of partial deviation of foreign law and order and application of the law of the country of the court, content of which is the most similar to that of the rejected;
- that of decision divisibility, which presupposes partial rejection to enforce foreign decision, or recognition but rejection to enforce.

This public order clause is applied to prevent the following: violation of international public order, application of foreign law of criminal character, attribution of

responsibility on an innocent person, violation of weak party rights, violation of fair and commensurate reimbursement principles (both upwards and downwards), immoral deals execution, corruption, bribery.

Recovery against debtor’s property is executed in accordance with the legislation of the country of debtor location by the claimant request to the competent court of Contracting party, which the claimant must provide with: a properly certified copy of competent court decision with a confirmation of its entry into force, or solicitation of its enforcement; a competent court document certifying debtor’s participation in a court trial, and in case of absence from court – a document certifying the debtor was properly notified of the court trial; a court order. In accordance with clause 3 article 59 of the Convention on legal assistance and legal relations on civil, family and criminal matters (hereinafter referred to as Convention) as of October 7, 2002 foreign court decision acknowledgement and execution can be rejected in case acknowledgement and execution contradict public order of the inquired Contracting party. Clause 3 article 57 of the Convention states that decision acknowledgement and execution order is defined in accordance with the legislation of the Contracting Party, on whose territory the execution must take place [4].

In accordance with clause 9 part 3 article 77 of the Constitution of the republic of Kazakhstan while applying the law the judge should be guided by the jurisdiction principle according to which evidence received illegally is of no legal effect [5].

In accordance with the norms of article 8 of CC RK citizens and legal entities must act honestly, reasonable and fairly while exercising their rights [6]. This obligation cannot be excluded or limited by a contract. Actions of citizens and legal entities aimed at doing harm to another person, abuse of rights in any other form, and

at exercising of right at variance with its purpose are inadmissible. In case of failure to follow specified requirements the court has the right to reject a person in applicable law protection.

Solving an issue of public order clause application the court inevitably faces the problem of balancing two interests. Thus, on the one hand, state court should not execute arbitration decision, acknowledgement and execution of which contradict principles that form public order of the country of decision execution. On the other hand, state court should not tolerate such standard of public order application which would violate the principle of conclusiveness of foreign arbitration decision. Considering the possibility of broad interpretation of this judicial review, one of the conditions of legal distinctness achievement in law enforcement practice is the awareness of both public order clause notion and content and appropriateness of its use by national courts.

We should note that in both Kazakhstan and foreign science public order clause is a universally recognized principle of international private law. Besides, not a single country, where application of public order clause is stipulated by the legislation, gives a detailed description of public order. Thus, they either use the term “public order” providing no explanation or use some general guidelines referring to basic law principles, basics of law and order (references to certain national laws). All mentioned above leads us to a conclusion that public order clause meaning has not yet been clearly defined. In connection with that the basic elements of public order are described in literature with consideration to national court practice.

Examining the issue of features and application of applicable imperative norms to foreign elements in court practice, it is necessary to mention that Constitution norms, its corresponding laws, other legal

acts, international contractual and other obligations of the Republic, and legal resolutions of Constitutional Court and Supreme Courts of the Republic of Kazakhstan are the active laws of the Republic of Kazakhstan.

Constitution has the highest legal effect and direct impact on the entire territory of the republic. International agreements ratified by the Republic have a priority over its laws and are applied directly, except for the cases when an international agreement specifies that its application requires adoption of a law.

Article 1091 of CC states that rules of section 7 of CC “International private law” does not involve imperative norms of the legislation of the Republic of Kazakhstan, which due to reference to them in the law or due to their great importance for ensuring rights and protected by the law interests of the subjects of civil circulation, regulate certain relationships regardless of applicable law.

This means that even if conflict of CC laws requires foreign law application, but this law contradicts imperative norms of CC, foreign law will not be applied. Priority of imperative norms over foreign law norms, which are to be applied by the virtue of conflict of laws, is vested in the legislation of a number of European countries (art. 7 of Rome Convention on the law applicable to contractual obligations of 1980, art. 18 of the Private International Law of Switzerland, art. 34 of the Private International Law of FRG of 1986). Such imperative norms include, in particular, consumer protection norms, currency law rules, see carrier responsibility limits norms, antitrust law norms, export and import restrictions, norms, limiting freedom of contracts for the behalf of its weaker party protection, some equity rules, norms, ensuring implementation of the state policy in the sphere of insurance and banking activity.

In accordance with clause 1 article

1091 of CC and due to its special relevance for the interests of citizens and legal entities of the Republic of Kazakhstan or due to a reference made by the court, such imperative norms as basics of civil law (art. 2 of CC), exercise of civil rights (art. 8 of CC), invalidity of a bargain which is deliberately offensive to basics of norms and rules or moral (cl.1 art. 158 of CC), freedom of contracts (art. 380 of CC) can be applied.

Thus, such imperative norms are applied in special exclusive cases, which can take place during a certain court trial. This is a kind of a safety valve, which is activated when application of some foreign norms application would affect the basics of the legislation of the Republic of Kazakhstan. Conduct of cases with foreign interest is regulated by section 5 chapter 45 articles 413-426 of CPC RK.

The problem of defining the notion of “imperative norms characteristics” is studied in the theory of civil law and procedure, the notion of “imperativeness” implies exact determination of rights and obligations of the subjects of law, i.e. imperativeness, in the first place, depends on the subject of disputable legal relationships, which means one of the parties should be a foreigner, if we speak about citizens, or a foreign enterprise, in we speak about legal entities.

Constitutional Council of the Republic of Kazakhstan explained that foreign citizens also cannot exercise other rights and freedoms, which they cannot use in accordance with the requirements of the Constitution, laws and other normative and regulatory acts, and also in cases, stipulated by international agreements of the Republic of Kazakhstan.

In accordance with art. 3 of the Law “On legal position of foreign citizens in the Republic of Kazakhstan” foreign citizens have all the rights and freedoms, and perform the duties, fixed in the Constitution, Law, and international agreements of

the Republic of Kazakhstan, except for the cases stipulated by laws and international agreements of the Republic of Kazakhstan. In accordance with art. 6 of the Law, foreign citizens can be involved in labor activity in the Republic of Kazakhstan on the basis and in order stated in the legislation and international agreements of the Republic of Kazakhstan.

Foreign citizens cannot be appointed at certain positions and be involved in certain labor activities if in accordance with the legislation of the Republic of Kazakhstan appointment at these positions and involvement in such activity are connected with citizenship of the Republic of Kazakhstan.

In accordance with the reciprocity principle the state applies foreign right or determines the amount of rights of foreign subjects depending on whether the other country has established the same principle. This point of view, called public, gives a general description of a notion of reciprocity, but concerning arbitration decisions recognition it requires certain concretization.

In Kazakhstan, reciprocity means that arbitration decision, taken by a certain country, will be recognized and executed only in case if arbitration decision, which is taken in Kazakhstan and is considered as Kazakhstani, will be recognized and executed in this certain country. In other words, execution of Kazakhstan arbitration decisions in other countries is a necessary condition and basis for execution of decisions of this certain country in Kazakhstan.

We can say that reciprocity is a certain type of “consent” of the executing country for recognition and execution. Such consent can be realized through three channels: bilateral international agreement; multilateral international agreement; on the basis of national legislation.

Article 425 of CPC RK and part 2 clause 1 article 32 of the Law of the Re-

public of Kazakhstan “On international commercial arbitration” as of December 28, 2004 presupposes that “arbitration decision taken by a foreign country is recognize by a competent court and is executed by execution agencies on a reciprocity basis”. The list of motives for rejection to recognize and execute arbitration decision, stipulated for by the Law of the Republic of Kazakhstan, coincides with the list accepted by New York Convention.

Thus, Kazakhstan recognizes the arbitration decisions taken by the countries – members of the Convention. However, execution of these decisions causes certain problems. International agreements ratified by the Republic of Kazakhstan, have a priority over Criminal Procedure Code of the Republic of Kazakhstan and are applied directly. (cl. 3 art. 3 of CPC RK) [7]. Having joined international conventions and agreements, having signed bilateral intergovernmental agreements, our state got obliged to recognize the effect of arbitration agreements and clauses in dispute settlement order contracts, and also recognize and execute decisions of foreign, international and national arbitration tribunals.

Enforcement of the arbitration decisions requires appropriate instruction of a competent body of the country, where execution is solicited, that is the instruction of the court.

In Kazakhstan as the variety of arbitration decision execution there exist exequatur – appealing to court with a request of recognition and execution of the decision. Herein after consideration of arbitration decision regularity (absence of rejection motives) the court issues a court order – an execution order by the request of the interested party.

Moreover, in accordance with the regulation of article III of New York Convention exequatur is realized in accordance with the procedural norms of the territory, where recognition and execution

of these decisions are requested [8]. Herein, the regulation of article 425-1 of CPC RK states that the claimant has a right to appeal to the court with the request of local action concerning arbitration decision enforcement [7].

That means in case of enforcement of the decision taken, say, in the USA as respects to the Kazakhstan resident respondent, in accordance with article 425-1 of CPC RK, it is necessary to go to the court located in the USA.

However, in accordance with article I of New York Convention this decision will be considered by the USA courts as local, not foreign. Besides, the USA court can reject the enforcement of such decision since it should be executed on the territory of the Republic of Kazakhstan. In accordance with this rule, stipulated for by article 425-1 of CPC RK, we can conclude that in occurs only as respects to arbitrations located on the territory of the Republic of Kazakhstan [7].

Thus, we believe that the regulation of article 425-1 of CPC RK amounts to nothing the declared principle of recognition and execution of foreign arbitration decisions in the Republic of Kazakhstan.

Kazakhstan recognizes arbitration decisions, taken by the other Convention member state. Consequently in accordance with the Law on Arbitration Tribunals only procedural violations and contradiction to the public order can become motives for rejection of enforcement.

Regulations of article 32 of the Law of the Republic of Kazakhstan “On international commercial arbitration” states that arbitration decision is acknowledged obligatory when a written request is sent to the competent court in accordance with Civil Procedural legislation of the Republic of Kazakhstan [3].

All this arise certain difficulties in determining the competent court which should be addressed to have the local arbitration decision executed. In connection

with this we can ask a question: which court can be considered competent when there are several state courts on the territory of a dispute consideration?

These issues have not been yet solved completely by Kazakhstan legislation. We believe that the issues are of considerable importance for the claimant and should be solved by the arbitration that has taken a decision, and not by the local action court, since, if not, the arbitration decision will be changes, which is inadmissible. These and other issues should be solved by making amendments and additions to the legislation, which would regulate the processes of arbitration decisions recognition and execution.

We think that diversifying international relations, revival of industrial, cultural and social relationships, purposeful policy aimed at integration of Kazakhstan into the world economic system, huge preparatory work to join the World Trade Organization in particular will cause increase in foreign arbitration and court decisions requiring execution on the territory of the republic.

Such decisions execution is regulated not only by the national legislation norms, but also by regulations of international agreements signed by Kazakhstan [9, с.47]. Appropriate and exact execution involves considering requirements of not only norms of our legislation, but also norms of international agreements – both multilateral (conventions in the first place) and bilateral, stipulating reciprocal civil, family and criminal assistance by member countries.

Legislation of any country reflects shaped traditions and peculiarities of economic and political life of the society. Unfortunately, voluntary execution of court decisions has not become an integral part of legal culture. Collaboration in solving

the issues mentioned should become a basis for overcoming of existing problems in relationships between the states and contribute to improvement of international court decision execution norms.

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HISTORICAL STAGES OF JUDICIAL SYSTEM DEVELOPMENT IN THE REPUBLIC OF KAZAKHSTAN

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The formation of a separate Kazakh state took place in the 15th – 16th centuries. The ancient law of the Kazakh people was formed on the basis of legal views and regulatory acts of different nomadic and semi-nomadic peoples. They replaced each other and consisted of ancient Turkic and Kazakh tribes.

The Kazakh law, formed on the basis of cultural and democratic traditions of the legal system, outlasted its own epoch. It had worked until the 19th – the beginning of the 20th centuries. The longevity of Kazakh law could be explained by two factors: firstly, the economic grounds of the nomadic civilization had been preserved until modern times. Secondly, the Kazakh law was very close to the folk and expressed its spiritual essence.

The first period of the development of the judicial system of Kazakhstan was presented by the courts of kazyi, aksakal, and biy. The history of Kazakh court originated since ancient times when folk customs and traditions and religious canons thought to be the laws in the Kazakh steppe.

One of the founders of the legal codes of the Kazakh Khanate was Maykybi – a great diplomat and public leader, the adviser of Genghis Khan. The strengthening of the country is also connected with Kassym Khan – the son of Az Zhanibek Khan. The first systematization of legal customs and regulations (known as “the Truth of Kassym Khan”) took place under his rule. Essim Khan also made great contribution to the development of the Kazakh legal system. He enhanced the responsibility of warriors thus strengthened war laws. This was caused by the necessity to protect the country from the aggressive rushes of Dzungars. At the end of the 17th cen-

turey Az Tauke, Tole Bi, Kazbek Bi, and Aiteke Bi created “Zhety Zhargy” which is a direct law system and the judicial power code [1, p. 122].

The last quarter of the 18th century is a very important historical period in the formation of official judicial system of Kazakhstan. At that time the Kazakh people were subjected to Russia and practically lost their right for self-government – there functioned Russian laws together with the courts of biys. On December 23, 1786 Yekaterina II issued the Decree on Formation the Frontier Court in the Kirghiz (Kazakh) Steppe projected by the then General-Governor of Orenburg Igelstrom. Every head of the tribal union was appointed the chairman of local tribal court. Mullahs were appointed the secretaries and six Kazakh foremen were appointed the advisers. Two Tatars and two Russians were inspectors. In this way the official judicial power intruded into the life of the Kazakh people. The given period could fairly be called the second stage of the historical development of the judicial system in the Republic of Kazakhstan.

In 1918-1920, at the height of the civil war, in some regions of the country White Russians seized power. As a result, revolutionary tribunals fell. For the purpose of their restoration on April 12, 1919 the Kazakh Military Revolutionary Committee re-established “The Statute of Revolutionary Tribunals”. On December 31, 1922 the Union of Soviet Socialist Republics was formed. This fact greatly changed the structure of judicial system and marked the third period of the judicial reformation in Kazakhstan. At the beginning of 1923 the All-USSR Central Executive Committee issued the decrees on formation of the supreme courts in the republics.

In this connection on April 10, 1923 the Supreme Court of the Russian Soviet Federative Socialist Republic issued #31 Decree. Article 8 of the decree states, "... herewith 57 staff units are established for the administration of the Turkistan department of the Supreme Court, approved by the Resolution of the Supreme Court Presidium dated March 17, this year. Enclosure: the Turkestan department staff". On April 11, 1923 according to the Resolution of the All-USSR Central Executive Committee the Supreme Court of the Kirghiz (Kazakh) department was formed within the structure of the Russian Soviet Federative Socialist Republic.

1925 is considered a very important year in the life of the country. There were some important changes in the system of state and territorial administration. According to the decision of Russian authorities the territory of Kazakhstan was divided. Southern regions went to Turkestan. In 1924 Zhetysuyskaya Oblast and Syrdaryinskaya Oblast were included in the Kazakh ASSR. At that period the Kazakh branch of the Supreme Court of the RSFSR was preparing the project revising the regulations of the court structure. This was caused by the fact that there was not Collegium for Civil Cases in the Kazakh department of the Supreme Court. Civil cases were tried in provincial (oblast) courts while protests and complaints were sent directly to the Supreme Court of the RSFSR. The given fact caused the necessity of the formation of the Collegium for Civil Cases [2, p. 35].

As it has already been mentioned, by the time when Kazakhstan joined Russia, judicial functions had been executed by khans, sultans, and biys (tribal heads) orally on the basis of the Kazakh customary law. Khans and sultans together with powerful biys tried the most important case categories related to the relations between Kazakh Zhuzs and several tribes. They also tried the cases of the murders of feu-

dal-tribal aristocracy, etc.

Professor E.B. Abdrassulov fairly states that the Kazakh Court played an important role not only as the justice institute of the Kazakh steppe, but it also greatly contributed to the development of the customary law norms [3].

Before the joining of Kazakhstan and Russia the biys fulfilled not only the judicial functions. They also functioned as local administrative organs. Their power was rather strong. The Kazakh biy was not only the judge but also the head of the division (aul). There were not any special organs executing the sentences.

The origin of biys as a particular category refers to the ancient times and requires careful study. The status of "biy" was not strictly hereditary but it was considered very important. In 1864 Ch. Valikhanov in his work "The Notes on the Judicial Reform of the Kirghiz-Siberian Department" gave convincing evidence of the hereditary gaining of the biy status in the Kazakh society. In particular, he pointed that at the end of 18th century in the Karakesek clan of the Middle Zhuz there lived a famous biy Kazbek. His descendants are still having the status of biy – Kazbek, Bekbulat, Tlenchi, and Alchi-bay [4, c.87].

According to the ancient norms of customary law, the biys were appointed by aksakals (clan heads) and other honorable rich people having great experience and knowledge of the legal customs of the country.

The changes in social and economic relations caused the changes in the functions of the biy court. But the biy court in the pre-revolutionary Kazakhstan was always considered the organ of feudal supremacy as it suppressed the resistance of working population of the country.

For example, A. Zuev characterizes biys as "the wisest and the worthiest". In his opinion, the Kazakh court of biys was "as pure and truthful as the life itself". In

spite of the past centuries and years when biy-judges held the priority position in the Kazakh society and in the Kazakh khanates, in the opinion of the author, “in modern Kirghiz (Kazakh) man there are still alive the inspiring legends of the past: telling something to them he is always ready to add either a deep and hard sigh or such words that cause sadness among the listeners”.

Important changes to the biy court jurisdiction were made according to the Regulations on Siberian Kirgiz People dated 1822. According to it, all legal cases were divided into three categories: 1) criminal cases, 2) legal actions, and 3) administration complaints. Criminal cases were only 1) high treason, 2) murder, 3) robbery and barymta, 4) obvious disobedience to the authorities. If being accused of these crimes the Kazakhs had to be tried in tsar’s courts on the ground of imperial laws [5, p.105].

So, the most important categories of criminal cases, touching upon the interests of imperial power, were taken from the jurisdiction of the biy court. According to the Regulations of 1822 all other cases including physical injuries, battery, insults, stealing, fraud, intentional arson, bribery, false denunciation, etc. were considered legal actions and were subject to the jurisdiction of the biy court. The court tried them on the ground of the customary law. These changes to the jurisdiction of the biy and imperial courts influenced greatly their punitive activity on the application of the material criminal norms. The Regulations of 1822 also established the order of appeal of the biy court’s verdicts. Verdicts were recognized not final, the dissatisfied side could bring a complaint to the Oblast Head who decided their approval or not. In that way the activity of the biy courts were taken under control by tsar’s administration. The new order of appeal led to a significant decline of the the biy court role.

The next restriction of the biy court

activity took place in the Siberian department on the ground of the act “On the Spreading of General Imperial Laws on Siberian Kirghizs” dated May 19, 1854. According to it, besides the above-mentioned categories all cases related to malfeasance such as forgery, perjury, and the crimes committed not in nomads’ camps but in towns and villages were taken from the jurisdiction of the biy court [6].

For the purpose of creation of a “strong” judicial system in local places the tsarist government decided to give the biy court the elements of bureaucratic legal machinery. To make this the title of biy was given only to sultans and aul-heads having served on the position not less than six years, and to the persons “highly decorated and having the positions approved by the government. Those people who had had the title of biy before the law promulgation in 1854 retained it either [7, p. 311].

According to the Provisional Regulations of 1867 and 1867 the court of biy was considered “public court”. By this way the tsarist government wanted to hide the point of the court, i.e. the means of colonial oppression and feudal exploitation of the folk. The new court was different not only from the ancient court of biys but also from the court of the first half of the 19th century. According to the new laws the positions of biys were formally considered elective ones. The elections were held simultaneously with the elections of “volostnoy upravitel” (regional head) at the meetings of Pentecostals (electors) for the term of three years. The Provisional Regulations of 1867 and 1867 established three instances of the biy court:

1) Single-handed biy court trying small claims - no more than 300 roubles and finally no more than 30 roubles (according to the Regulation of 1867 – no more than 100 roubles),

2) Volost biy court trying claims re-

ardless of the sum and finally up to 500 roubles. At the same time it was considered the court of second instance for the claims decided by a single-handed biy court.

3) Extraordinary congress of biys trying the cases between the different volosts (small rural districts) of the same uyezd (district). It was called in case of need by the order of uyezd-head. It was considered the court of second instance for the cases decided by volost biy congresses.

To decide the cases between several uyezds the military General-Governor gave the permission to call extraordinary congress of the biys of the concerned uyezds.

All the above-mentioned characterizes not only the structure and legal proceedings of the biy court but also gives an idea about the activity of the court when applying the criminal customary law norms.

In Kazakhstan the biy courts had functioned on the ground of the customary law until 1971.

1925 was very important for Kazakhstan. Great changes took place in the state system and territorial administration. On June 1, 1925 the Presidium of the All-USSR Central Executive Committee adopted the Decree "On Formation in the Kazakh Department of the Supreme Court the Collegium for Civil Cases and the Collegium of Appeal".

The Kazakh Department of the Supreme Court completed the improvement of the court system and structure in 1926. In 1926-1936 the Soviet courts actively worked for supporting communist ideas of socialism construction. In 1936 the activity of judicial organs was consolidated by a new Constitution adopted by VIII All-Union Extraordinary Congress. On March 26, 1937 X All-Kazakhstan Soviet Congress issued the resolution about a new Constitution of Socialist Kazakhstan. Arti-

cle IX of the USSR Constitution and Article VII of the Kazakh SSR Constitution covered the issues of organization and formation of prosecutor's judicial organs. In accordance with the KazSSR Constitution on administrative division the judicial system was formed under the aegis of Council of People's Deputies. The KazSSR Supreme Court was the higher judicial organ.

The necessity of judicial system reformation appeared in the period when the power of party apparat grew weak, when the idea of independent court as an independent branch became embedded in people's minds. Though the Constitution of KazSSR recognized the judges' independence and subordination to law, courts were officially considered the part of Soviet power.

The fourth period of the judicial system reformation started when Kazakhstan became independent and adopted the main law of the country. Essentially, reforms in the sphere of justice began when the Constitutional law "About State Independence" dated December 16, 1991 was adopted. It declared that the state power in Kazakhstan is built and functions on the ground of the principle of its division into legislative, executive, and judicial branches. The given principle was consolidated in the Constitution of the Republic of Kazakhstan dated 1993. The Constitution also consolidated main principles of the judicial power organization and activity. In accordance with the Constitution to the tribunal belong the Constitutional Court, the Supreme Court, the Supreme Arbitration Court, and subordinate courts [8, p. 4].

Social and everyday cases were considered one of the most important problems. The Constitution strictly regulated the structure of judicial organs, the authorities of judges, and the issues of judicial staff. The Supreme Court was recognized the highest instance. Its functions

included cassation, supervision, and control over subordinate courts. It was also recognized as the organ interpreting the questions of judicial practice and legislative acts application. The Constitution provides that all intra-economic questions relating to justice administration were entrusted to the head of the Supreme Court board. The structures of oblast and urban courts were identical. Military courts of the country by their competence and functions could enter the plenary session of the Supreme Court of the republic. The institute of people's assessors was abolished. The next step in the judicial system reformation was the Decree "About Courts and Judges' Status in the Republic of Kazakhstan" dated 1995. The Decree has the force of a constitutional law. It approved the status of the independent judicial power [9, p.12].

Judicial system is one of the main constituents of the state, one of the key factors of the democratic development of the country on the way of social, economic, and political modernization. The guarantee of the state mechanism democratization is the principle of power branches division and their interaction.

On January 28, 1993 the main Law of the sovereign Kazakhstan – Constitution – was adopted. The new Constitution met the new social and state system. Kazakhstan strengthened its own international authority. New social and political relations arose in the country. Besides this, the Republic of Kazakhstan proclaimed to be building the state governed by the rule of law. All these dictated the necessity to conduct a cardinal legal reform meeting a new social, political, economic, and international status of the new state. The Decree of the President of the Republic of Kazakhstan "On the State Program of the Legal Reform in the Republic of Kazakhstan" dated February 12, 1994 became a historic document that approved the priority trends of the legal system reform. A

fair and independent court, a highly skilled impartial judge appointed on the regular basis, the improvement of the social and economic provision of judges – all these are the grounds for impartial justice and life of dignity for the judiciary. This stresses the importance and immeasurable responsibility of judges for the results of their work, and social protection of the honor of the man in the gown [10].

The Constitution of 1993 played an important role in the development of the legal system and the democratic processes in the society but a great number of fundamental issues remained open. In this connection the Decree of the President of the Republic of Kazakhstan "On the State Program of the Legal Reform in the Republic of Kazakhstan" dated February 1994 became the document defining the priorities of the judicial system development.

Thus, in the opinion of K.A. Mami, the judicial system transformations are connected with the adoption of the first Constitution of the sovereign Kazakhstan on January 28, 1993 as it consolidated the system and the main principles of courts' organization and activity.

The Constitution introduced such notions as "judicial power" emphasizing its social purpose (rights and liberties protection, ensuring of the Constitution supremacy, legality, and justice), subject and territorial jurisdiction (its spreading on all cases and disputes arising on the basis of the Constitution, laws and other acts, international contractual and other commitments of the Republic of Kazakhstan), and its independence (inadmissibility of entrusting its functions to other organs or officials) [11].

The Constitution considerably changed a single judicial system having introduced its three branches presented in the form of courts of general jurisdiction, constitutional courts, and courts of arbitration. Each branch except the Constitu-

tional Court had its own subordinate courts. The Supreme Court and the High Court of Arbitration were considered supreme organs of judicial power. They supervised their subordinate courts. The Constitutional Court was called the supreme organ of judicial power to protect the Constitution of the Republic of Kazakhstan. The Principal Law dated 1993 banned the formation and establishment of extraordinary, specialized courts, functional judges, and also extraordinary forms of legal proceedings. It meant the inadmissibility of justice administration by extrajudicial organs.

The weighty stage in the realization of the principle of the judicial branch independence was the adoption of the Constitution of the Republic of Kazakhstan dated August 30, 1995. It provided all necessary guaranties for ensuring courts' independence. There were introduced the election of the judges of the Supreme Court by the Senate of the Parliament and the appointment of the judges of local courts by the President of the country. There were formed the Supreme Judicial Council and the Qualification Collegium of Justice. The system of arbitration courts was abolished. Their functions were entrusted to the courts of general jurisdiction and their status and role in the system of citizen's rights and liberties protection were strengthened [12].

The next Decree of the President of the Republic of Kazakhstan "About Courts and Judges' Status in the Republic of Kazakhstan" dated December 20, 1995 changed not only the functional nature of courts but their social essence too. With the adoption of the Law the role of courts and judges in the development of democratic processes and the formation of legal state increased. Legal security and social prestige of judges also increased. This Law introduced a new term "judicial power". The exclusion of the judicial power influence on courts became one of the key

points of the judicial reform [13].

The Decree of the President of the Republic of Kazakhstan "On Measures of the Intensification of the Judicial System Independence in the Republic of Kazakhstan" dated September 1, 2000 marked a new landmark in the history of justice of the country. In accordance with the above-mentioned Decree and the Decree of the President of the Republic of Kazakhstan "On Measures of Ensuring the Functioning of the New System of Judicial Administration" dated October 12, 2000 the Judicial Administration Committee was formed under the Supreme Court. The functions of courts' activity support were handed over from the Ministry of Justice to the Judicial Administration Committee [14].

One more historic date in the judicial system of the Republic of Kazakhstan was the adoption of a new Constitutional Law "About Judicial System and Judges' Status in the Republic of Kazakhstan" on December 25, 2000. The given Law increased the authority of court, consolidated the irremovability and immunity of judges, and changed the procedure of judge appointment.

The adoption of the Constitutional Law "About Judicial System and Judges' Status in the Republic of Kazakhstan" on December 25, 2000 marked the beginning of the fifth period of the development of the independent judicial system in Kazakhstan. Nowadays it is evolving and making the judicial system of the Republic of Kazakhstan more perfect [15].

In accordance with the Decree of the President of the Republic of Kazakhstan "On Measures of Improvement of the Law Enforcement Activity in the Republic of Kazakhstan" dated January 22, 2001 the organs of executive proceedings were given to the Committee. At the same time the corresponding amendments were introduced into the Statute of the Judicial Administration Committee.

The Judicial Administration Committee under the Supreme Court is the authorized state organ carrying out logistics and other provision of the activities of oblast, rayon and equivalent courts, and ensuring the timely implementation of court orders. In this way the stumbling block of the judicial reform - the problem of the exemption of local courts from the executive power jurisdiction was finally solved [16].

The most important trend in the improvement of the judicial system was the implementation of court specialization. Within the last decade different economic, administrative, military, juvenile, and specialized criminal courts successfully functioned in the republic. The Financial Court of the Almaty City was formed in 2006.

On January 1, 2007 the institute of jury was introduced into the legal system of Kazakhstan. Due to the reform of 2007 the exclusive authorities of judicial sanctioning were handed over from the public prosecution bodies to the judicial system. On February 2007 the Decree of the President of the Republic of Kazakhstan approved the regulations on the jury testing the vocational fitness of the current judge. According to it new approaches to the estimation of judges' legal status and to the selection, training and placing of the judicial personnel were formed. The Institute of Justice of the Academy of State Administration under the President of the Republic of Kazakhstan trains future judges with different specializations.

Since January 2010 the judicial system has been working in a new format. With the introduction of the cassational instance the supervisory authority was abolished in oblast courts. The appeals instance was abolished in the Supreme Court of the Republic of Kazakhstan and now the Supreme Court is the superior judicial organ supervising subordinate courts. The given changes of the legislation were realized for the purpose of the elimination of

the multistage system of justice, simplification and faster consideration of legal cases.

The Decree of the President of the Republic of Kazakhstan dated August 17, 2010 abolished the Judicial Administration Committee under the Supreme Court of the Republic of Kazakhstan (formed in 2000). Its functions and authorities were handed to the Ministry of Justice of the Republic of Kazakhstan and to the Apparat of the Supreme Court of the Republic of Kazakhstan. It is thought to increase the effectiveness of the judicial system.

According to the Conception of the Legal Policy of the Republic of Kazakhstan for 2010-2020 approved by the President of the Republic of Kazakhstan the country will face the difficult process of the improvement of legal proceedings and judges' status, the ensuring of the openness and transparency of the judicial system. The given document gives the courts an opportunity to realize their human-rights potential.

But according to some foreign analysts modern Kazakhstan in many aspects is in the frontline of the judicial reformation in the post-Soviet area. In Kazakhstan there is a full-fledged judicial system meeting the requirements of a legal state. It is able to implement the Constitution and laws and to protect the rights, liberties, and interests of the citizens [17].

Since the first days of its sovereignty the Republic of Kazakhstan has been building a legal and democratic state to protect the legality and keep the order in the country.

A fair judicial power is the guarantee of the protection of the rights and freedoms of citizens' and other subjects of law.

The judicial power became the reality in the Republic of Kazakhstan. It is one of the main achievements in the development of our statehood. Now the judicial power has all the attributes of the state au-

thority. It is a stabilizing power in the state able to protect citizens' rights and freedoms and the whole society from social conflicts. It has the right to control not only the conformity of the actions and decisions of other organs and officials with the law but also the legal content of the regulatory acts.

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THE PROBLEMS OF LEGAL LIABILITY FOR THE BREACH OF THE WATER CODE OF THE REPUBLIC OF KAZAKHSTAN

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Providing for the legal regulation of water consumption relations, the state ensures strict observance of the water code by water consumers, enterprises, organizations, institutions, and citizens. The state defends the rights of water consumers from different infringements and requires the water consumers to fulfill their commitments. Therefore, the state protects the right of water use in subjective and objective senses, i.e. the subjective right of enterprises, organizations, institutions, citizens, and the institute of water right.

To protect the rights of water consumers, legislation provides for a system of measures to prevent offences and restore the broken rights of water consumers. The given measures are applied by means of putting into force a mechanism of legal liability for the breach of the water code. In addition to the system of state administration and control the mechanism of legal liability is of great importance in the concern of the protection of water consumption rights.

The liability for breaching the right of water consumption in certain cases is to force water consumers to fulfill their commitments to the state and other legal subjects. At the same time it purposes to force the public authorities, enterprises, institutions, organizations, and other officials and citizens to behave in a way so as to protect the legal rights and interests of water consumers and the legality of the acts relating to the administration of water use and protection in the country.

First and foremost, the liability is expressed in the ascertainment and application of sanctions on enterprises, institutions, officials, and civilians for their activity or inactivity breaking the requirements to water consumers' responsibilities

or water consumers' rights. The sanctions are applied to enterprises, institutions, officials, and civilians guilty of breaching the right of water consumption. The fact of an offence and the guilt of an offender are based on the responsibility in subjective and objective senses.

According to the subject there are offences committed by water consumers themselves and offences committed by other officials, civilians, and organizations.

To the first group of offences belong the default of water consumers' commitments to the state and other subjects of law. To the second group of offences belong the breach of subjective rights of some or other water consumers by state bodies authorized to regulate water consumption, to solve the problems of allocation and withdrawal of water bodies, etc, or by other state bodies, water consumers, and other subjects.

The given classification of offences concerning the breach of water consumption right is important for the detection of the subjects, liability and type of the applied sanctions.

If an offence is the default of water consumers' commitments, the water consumer is to bear financial liability to the state and other subjects. In the cases stipulated by law the water consumer may be deprived of the right to use water bodies. Furthermore, the guilty officials can be made administratively and disciplinarily responsible for the default of water consumers' commitments. On condition that a water consumer-offender incurs damages there may arise a question of damages compensation by guilty parties according to the procedure and within the limits of financial responsibility provided for by the

legislation.

If the subjective rights of water consumers are broken by the offence of other parties the latter are to be financially responsible to the aggrieved water consumer. The guilty are to be made criminally, administratively, and disciplinarily responsible.

Depending on the objects of infringement there are offences connected with the breach of state property in water bodies, offences connected with the breach of water protection and rational use order, unauthorized water consumption, and unauthorized hydro engineering.

The second group of offences causes changes in water quality, pollution and exhaustion of water bodies: over-dumping of sewage; other cases of water pollution; putting into operation communal and other enterprises without water pollution preventing facilities; failure to take the necessary measures to prevent ill effect of waters, in particular, flood control measures.

The third group of offences includes the breach of water consumption order, destruction and damage to water facilities, unauthorized construction or reconstruction of objects able to cause the changes of water regime, etc.

Each of the enumerated offences is characterized by its specific features lying at the basis of legal qualification of the offences, the choice of types and measures applied.

All the offences are enumerated in the Water Code of the Republic of Kazakhstan dated July 9, 2003. The Water Code provides for the guilty to be criminally and administratively responsible. The latter is of great importance for the whole mechanism of liability in the sphere of water legislation.

With regard to the types of liability the breaches of water consumption right are subdivided into crimes, administrative and disciplinable offences, and civil-law delicts. The given classification of water

offences is closely connected with the previous classifications and supplements them.

One of the objectives of the agencies for regulation of water use and protection is to take measures preventing the breach of water consumption conditions provided for by the legislation, to detect the causes and consequences of water legislation violation, and to prepare the documents for making the guilty amenable.

The breaches of water consumption are found as a result of routine inspections of rational water use, taking water conservation measures, operation of sewage works, and the state of sewage dumping; as a result of unscheduled inspections on the instructions of superior bodies, sanitary service, fishing control authority, hydro-meteorological service, and in cases of inferior quality of water.

The determination of legal liability applied in the fight against breaching the water legislation supposes the detection of the following: firstly, the point of liability as a legal category - to make the guilty administratively and criminally responsible; secondly, its role in preventing the breaches of legislation and ensuring the legality in the sphere of water consumption - to prosecute state associations, enterprises, organizations, kolkhozes, cooperatives, public associations, and citizens on damages disgorgement, to submit the materials to public prosecution bodies or internal affairs agencies to make the guilty criminally responsible.

The agencies for water protection may decide to terminate the right of water consumption or to suspend the productive activity of a water consumer. The given agencies are to interpret the right to file petitions for damages compensation to corresponding enterprises and citizens.

The responsibility under administrative law is the most prevailing one for breaching the regulations of water use and protection.

The Administrative Code of the Republic of Kazakhstan provides for the list of water offences involving legal liability.

In contrast to administrative penalties applied to offenders the science and practice of law single out administrative and preventive measures to be applied in the following cases: there is no an administrative offence but security requires to take preventive measures and protect moral and property interests of the state, citizens, and public associations. The main administrative and preventive measure is the suspension and termination of the operation of polluting enterprises, departments, and aggregations.

Unfortunately, the given administrative and preventive measures are not taken in practice. In many cases when it is desirable to suspend or terminate further operation of polluting enterprises, the agencies regulating water use and protection do not fulfill their functions.

Thus, to make the administrative and preventive measures more effective, it is of great importance to improve the status of the agencies for regulation of water use and protection in the system of the State Committee of Nature Preservation. These state bodies are to be independent from the ministries and agencies running water resources.

According to the legislation, criminal responsibility in the sphere of environment protection is provided for ecological offences, i.e. socially-dangerous actions (inactions) infringing on ecological law-and-order, doing harm to environment and population health (or threatening to infringe).

The basic normative form regulating criminal responsibility for ecological offences is the Criminal Code of the Republic of Kazakhstan.

The Water Code provides for financial responsibility of enterprises, organizations, and citizens, i.e. reparation of damages caused by the breach of water legisla-

tion.

The comparative analysis of criminal legislation draws the following conclusion: to make the fight against breaching water legislation more effective it is recommended to improve the norms of the Criminal Code, at least, to unify it concerning the majority of offences.

The development of criminal legal protection of waters in the legislation of the Soviet and post-Soviet periods are within the general sketch of legal norms development: casual description of conduct standards; abstract description of general standard of conduct; the concretization of the standard in the form of legal norms of an institution.

A famous ancient Greek fable “The Way Xanf Drank the Sea” presents the hopelessness of separation of rivers, mountain glaciers, and underground sources from sea waters. The pollution of the former causes the pollution of the latter. The evaporation of sea waters precipitates into upper reaches, lakes, and glaciers.

Furthermore, the separation of water protection legislation presents some difficulties concerning nature reservation in the Kaspi Region (“Kaspi – sea – lake”) for neighboring countries.

Nowadays the measure of financial responsibility – reparation of damages – is not taken sufficiently to ensure water rational use and protection.

Kolbassov O.S. subdivides two groups of damages caused by breaching water legislation:

- 1) the damages of the state - water owner;
- 2) the damages of enterprises, organizations, and citizens.

There are two types of pays: for emission limits and for the exceeding of the limits. In case of breaching the routine work of enterprises in the bad weather, accident emissions, and placing the factory waste in open places the fine is imposed

tenfold. Paying for environment pollution does not release an enterprise from taking nature-conservative measures and observing the legislation.

The structure of damages includes:

1) restoration costs of enterprises, organizations, and citizens;

2) the cost of damaged property (buildings, facilities, crops, etc.);

3) the income enterprises, organizations, and citizens might get in non-breaching of water legislation;

4) the cost for restoration of water bodies' state.

In case if the damages are resulted from the actions (inactions) of two or more water consumers, the damages are refunded proportionally.

The damages to enterprises, organizations, and citizens are refunded judicially. To the state the damages are refunded under arbitral procedure on the basis of claims by the agencies for regulation of water use and protection if water bodies are damaged.

Along with the measures of legal liability the measures of preventive control

and the right to terminate ecologically destructive activity are of great importance in the sphere of nature conservation. The given measures include an ecological examination of projects, plans, etc. and the right of state organs to suspend or terminate the operation of enterprises violating the legislation on nature conservation and rational use of natural resources. But the given measures will be effective only if they are taken openly, with public participation and under public control.

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THE ROLE OF INVESTMENT IN HUMAN CAPITAL: THE ESSENCE AND IMPORTANCE

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In the judgment of most scientists (analysts) capital formation is the essential component of human capital. Capital formation is one of the forces of economic growth of the country and its socio-cultural development. For the individual it comes forth as a public good, a basis of formation and humanization.

Human capital has a defining role, being one of the greatest factors of economic growth and welfare of the community in a modern economy. In this regard many firms pay careful attention to human capital accumulation as a type of capital of high-value.

Human capital theory was studied from the XIX century. Such famous economists and theorists as Sir William Petty, Adam Smith, John Stuart Mill and Karl Heinrich Marx discussed useful human capabilities using the term “nominal capital”. Their discussion was about the necessity and expediency of the human treatment and its abilities as peculiar nominal capital. Such economists as Jean Baptiste Say, George McCulloch, Nassau William Senior, Walter Roscher, Henry Dunning Macleod, Marie Éspirit Léon Walras, Johann Heinrich von Thünen, Irwin Fisher considered human treatment as possible and useful as a form of nominal capital.

The term “human capital” gains considerable importance not only among academic economist, but also among individual firms.

The importance of human capital includes: skilled labor force; set of knowledge, qualifications, practical skills, abilities to innovations of each of employees of the enterprise; system of values, culture, and philosophy of business which can't be copied or reproduced in other organizations.

Interest has increased in economic science in human creative abilities, to ways of their formation and development. Many companies are beginning to make a point of accumulation of the human capital, as most valuable of all kinds of the capital.

One way of accumulating human capital is investment in health and education.

The quality and level of gained knowledge are determined by natural abilities and environmental factors: the level of the educational institution, where the knowledge was derived or obtained, diligence, financial possibilities of the family, education paid for by the student, the national policy in the field of education, state financial backing and patronage of the education system. Adequate attention still is not paid to the importance of personal motivation for the person gathering knowledge and to the important contribution of knowledge in the total value of human capital.

The motivation for lifelong learning depends on many factors: the level of education, norms and values, supported by the state and society, the demand for qualified specialists, professional skills and personal qualities of the teachers, employed educational technologies, the general organisational culture of the educational institution, and human consciousness of the link between professional career and existing knowledge.

Meanwhile, the future of the citizen is not satisfied only with the theoretical knowledge on account of obsolescence lead by rapidly developing science. Competitive power in the job market depends on the activity of the person, the flexibility of his thinking, the ability to improve al-

ready gained knowledge and experience. The ability to adapt successfully to the constantly changing world is the basis of social success.

In this regard it is quite understandable the interest, which shows modern pedagogy to pragmatic technologies of training. One of the examples of the activity approach in educational activity is the method of investment in the knowledge economy - projects.

Project-based learning newly becomes relevant in the modern information society.

The project is the work aimed at solving a particular problem, achieving the beforehand planned result by an optimal way.

There are several types of projects: practice-oriented, research, information, creativity, game or role-playing. Each of these projects has its own intentions, designed product, the type of the activity of the student and forms of competence (activity, reasoning, information, communication).

The development of the common educational skills is one of the most important tasks of training, as well as the problem of formation of competencies, can be addressed in the project activities. Under the term "competence" usually is understood the knowledge, coupled with the experience of their practical application. The attention to the formation of competencies is a characteristic feature of active learning technologies.

The competence approach in education that is in great request as of today advances at first the ability of the student to solve problems arising in practical activity rather than the student's information awareness. The competence can be gained only with the help of self-setting of the problem, its research, the search of the necessary resources for its solution. Namely the project activity allows the students to learn to recognize the problem, to trans-

form it into a goal of its activity, to develop a plan of the succeed; realize it, to achieve results and, looking back, to analyze their own successes and failures, in order to avoid them in the future.

The competent use of knowledge can serve as a significant competitive advantage of the Russian economy in the whole world, as far as in the previous historical period the qualitative institutional base for their reproduction was laid. At the present time the presence of the will on the macroeconomic level is required and the support from the government for the effective involvement of previous groundwork.

Many followers of the theory of human capital have developed quantitative methods of the knowledge economy and the analysis of the investments efficiency in education, health care, training on production operation, migration, birth and care for children, and their monetary returns for society and the family. The main focus of this analysis is made on the individual's producible capacity and income differentiation induced by different levels of investment in their production.

Let us analyze the main causes, mechanisms of changes in "human capital" that affect the educational process and corporate level for better understanding of the process of investing in "human capital". More often the corporate human capital increases due to the accession of the individual "human capital" of newly adopted workers (primary, extensive way).

The "human capital" changes the size and structure due to the investments, as from the part of the worker, as well as from the company, notably the change of the individual "human capital" is primary. As consequence, the corporate "human capital" (the intensive factor) increases (by changing its structure).

For Example: an overrating of the "human capital" reflects the impact on corporate "human capital" of external factors, whereas the «human capital" can not

be regarded independently from external conditions. The overrating can be both positive and negative. In the latter case the term "depreciation" fits better. Except for depreciation, the of recession factors of the corporate "human capital" become firing of the workers, death or other reasons, that lead to retirement.

How the impact of investment can influence on the change of the elements of the "human capital"? It appears that this change occurs in the consumption of the earlier created value and labor force, which are supported by investments. Any investment in "human capital" is connected with participation of labor, whether it is the labor of the teacher, the sports coach or the confectioner. But, what is more important, the indispensable condition of the achievement of an objective of investment is the work of the medium of the "human capital". Thus, the process of "human capital" elements transformation is the consumption process of earlier made value and labor power, therefore it has clear analogies with the production process, and may be considered quite the same with some assumptions. The essential difference is that for such a "production" we may have enough labor power, while we need the other factors for usual production process.

The main problem, the modern enterprises have to clash, is the valuation of human capital investment efficiency. Difficulties, we meet here, are mostly explained by some peculiarities the human capital investment has, what distinguishes it from the other types of investment.

Firstly, the efficiency from human capital investment immediately depends on its bearer life term (on the duration of work capacity period).

The earlier the human investment is made, the quicker it begins its efficiency. But we should know that more qualitative and permanent investment gives higher and more prolonged effect.

Secondly, intellectual and human capital is exposed not only to the physical and moral wear, but is also able to accumulate and increase. The human capital wear forms, firstly, by natural wear degree (aging) of the human system and its psycho-physiological functions, and, secondly, by moral (economic) wear degree caused by knowledge aging or the received education value changing. The human capital accumulation forms during the process of worker's periodical re-learning and his accumulation of production experience. If this process is uninterrupted, then, using the human capital, we may improve and increase its qualitative and quantitative characteristics (quality, volume, value).

Thirdly, during the human capital accumulation its profitableness increases to the definite limit, restricted by the upper bound of work activities (active able to work age), and then comes down abruptly.

Fourthly, in the human capital forming "the mutual multiplying effect" takes place. Its essence is that during the learning process the characteristics and capacities of not only the trained improve and increase, but also of the trainer, that causes, as a result, the wage growth of both.

Fifthly, not all the human investment may be considered as human capital investment, but only that which is expedient for the society and necessary for the economy. For example, the expenses for the criminal activity are not the human capital investment, because they are not expedient and noxious for the society.

Sixthly, the whole character and the human investment types are conditioned by historical, national, cultural peculiarities, and traditions. So, the education level, and choice of the future profession by children greatly depends on their family traditions and their parents' educational level.

Seventhly, in comparison with the other different forms of capital investment,

the human capital investment is the most profitable one, as in the definite person's opinion, so from the point of view of the whole society.

In the opinion of many scientists' theoretical and practical methodology, the investment just makes the base for the human capital production in the Education System, the Health Service, the qualification rise system, economic motivation,

geographic mobility, etc. Its essence is not only putting money, but also real, deliberate, and purposeful activity of the investor. Here expenses of labor and efforts in self-development, and self-perfection play an important role in the human capital creation. Proceeding from the topical suppositions, we can make the following formulation of this study theme:

THE HUMAN CAPITAL INVESTMENT + STRUCTURAL CAPITAL = THE EFFECTIVE INTELLECTUAL CAPITAL

High technologies need knowledge renovation among specialists one 5-7 years. Thus, the uninterrupted education takes the paramount importance. The aim to form in a person the motivation to study during the whole his life becomes especially important. The rates of scientific and technical progress, the development of the new type economy (knowledge economy), and also the realization of the firm society development conception depend on the success of its achieving.

The quality and the rate of professional skills are defined by the developed natural capacities of the concrete person, by his level of the received education, his experience, the complexity level of the job, and by the labor motivation.

As education has a great influence on all the components of the human capital, so the education investment is one of the most important investment types. The knowledge, secured in the human capital and technologies, is the engine of productivity and economic growth. We may call human capital investment any measure, taken to increase the labor production. Thus, we refer to the human capital investment the expenses for the health maintenance, for receiving the general and higher education; expenses, connected with the job seeking, with professional training on the production, with migration, birth and growth up of children, with seeking the information about prices and wag-

es, which is very important for the economy.

Economists distinguish three types of the human capital investment:

- expenses for education, including the general and special, formal and informal ones, for the training in the work place;

- expenses for care of the health, that form from diseases prophylaxis, medical services, dietary food, the improvement of living conditions;

- expenses for mobility, due to which the workers migrate from the places with comparatively low production force.

Also there is a subdivision of the human capital investment into material and immaterial ones. To the first group we refer all the expenses that are necessary for physical forming and development of the person (cost from the birth and growth of children); to the second one – accumulated expenses for the general education and special training, a part of accumulated expenses for the care of health, and labor power transference.

From all the types of human capital investment the most important is the health and education investment. The general and special education improves the knowledge quality of the person, raises its level and accumulation, and increases the volume and quality of the human capital. The higher education investment helps the forming of highly qualified specialists,

whose highly skilled labor causes the greatest influence on economic growth rates.

Today one of the most important components of the human capital investment in all the countries is the expenses for training on the production. In any training project up to 80% of knowledge are taken independently by the worker. Especially it is related to the professions of specialists, such as investigators, teachers, engineers, computer experts, etc, who must refresh their qualification uninterruptedly by individual studying of literature, using independent training programs, learning-by-doing, other people's experience, and marks (opinions).

Education investments on the basis of its essence are usually distinguished into formal and informal ones. Formal investment is getting the general, special and higher education, professional production training, different courses, study in the magistracy, in postgraduate course, degree study, etc. Informal investment is a person's self-education, here we may see reading the developing literature, perfecting in different arts, professional sport training. Together with education, the investment in health is also considered one of the most important. It causes the reduction of diseases and mortality, the prolongation of work capacity in the human life, and, therefore, of human capital functional time.

The human capital investment has some peculiarities, what makes it different from the other types of investment:

Firstly, the return of the human capital investment depends directly on its bearer life term (on the duration of the work capacity period). The earlier the human investment is made, the quicker it begins its efficiency.

Secondly, intellectual and human capital is exposed not only to the physical and moral wear, but is also able to accumulate and increase.

Thirdly, during the human capital accumulation its profitableness increases to the definite limit, restricted by the upper bound of work activities (active able to work age), and then comes down abruptly. Not all the human investment may be considered as the human capital investment.

So, if we examine the other countries of the world, according to the valuations, the largest volume of the human capital is in the USA and comes to about three fourth of the whole national welfare in the USA. The human factor investment has become the main purpose of the confident economic development of the United States in the late of the XX century.

Investments in the human factor became the main cause of the steady economic development of the United States at the end of the XX century.

Financing of staff education, creation of training centers become one of the main objects of attention among the companies in many countries of the world. However, unfortunately many firms still economize on training. While the IBM company, "Xerox", "Motorola" and other channel their funds for education at the rate from 5% to 10% of the labour compensation fund, the expenditures of the majority of firms on education average out at less than 2% of the labour compensation fund (salary fund).

The application of innovative technologies and methods of projects in education contribute to the formation of highly qualified specialists, who will become human and intellectual capital in the future, which is the engine of productivity and economic growth, not only of the institutions, but also of the country as a whole.

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DEVELOPMENT OF FRANCHISING IN KAZAKHSTAN: CHALLENGES AND ISSUES

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Buying a franchise is a popular choice for starting a business because the assumption is that the franchisor is selling business success; he or she has created a successful business, and therefore, the franchise business you buy will automatically be successful, too.

This is not necessarily so.

Although franchising is a relatively new business concept in Kazakhstan, entrepreneurs are becoming increasingly interested in pursuing this business model

[1]. In the past several years, spending and consumption patterns in Kazakhstan have begun to resemble those of the West, creating demand for name brands and recog-

nizable retail stores. Additionally, Kazakhstani companies have accumulated financial resources that, combined with a lack of available investment instruments, are stimulating interest in franchising as an investment tool.

There is no single registration agency for franchising, and consequently there is no reliable statistics on franchising in Kazakhstan. Industry specialists indicate that since 1998 to 2004 the number of franchises in Kazakhstan has grown to approximately 150, with about 1,150 franchising outlets. The Kazakhstan Franchis-

ing Agency states the total number of all franchises and brands operating under a franchising or similar agreement (January 2010) are 350 [2].

Given transparency issues and lack of statistical information in the market, it is difficult to define the combined sales turnover of franchises operating in Kazakhstan. Based on industry specialists' best estimates, the approximate turnover is in the range of \$550 million. On average, each franchisor has 2-3 franchisees in Kazakhstan.

Table 1. Franchising in Kazakhstan

	1998	2004	2010 January
Number of franchises	20	150	350
Franchising outlets	no data	1, 150	more than 3, 000
Number of employed	no data	no data	more than 20, 000
Turnover (\$ million)	no data	no data	550

Most franchises operate in the following sectors: retail, business services (especially accounting services), consumer services (hairdressing salons, cleaning, dry cleaning), mass media, and fast food. About 60% of all franchises are in Almaty, 30% in the country's capital Astana, and the rest are scattered over oil industry related cities in the west of Kazakhstan [2].

As noted by Jan Bezemer (a board member of the Netherlands Franchise Association (1998-2007) and initiator of and teacher at the Franchise University Nederland, a board member since 2000 of a large franchise company) cooperation is a word that is easier to pronounce than to give substance. In the business practice we find cooperation especially as so-called "strategic forms of cooperation". Companies combine forces in large investments in infrastructural projects, development of expensive oilfields, spreading of risk in projects etc. But it also happens on a

smaller scale [3]. Franchisors cooperate with dozens and sometimes hundreds of entrepreneurs who as franchisees use the brand name, marketing, economies of scale, know how and experience of the parent company. This is also a strategic form of cooperation because a franchise agreement usually has a first term of five years or more. All units of the franchise organisation are clearly recognizable as belonging to one, big, strongly managed organisation with a clear concept. A unity on the outside with diversity on the inside with lots of different types of entrepreneurs all of whom adopted and adapted to the centrally managed concept.

The sustainability of any socio-economic system, as we can see from the numerous researches and studies, is based not so much on formalization of its structure, quantity or quality of its components, but on the nature and characteristics of the internal links among

them. The variety and elasticity of these links ("invisible links") as well as their adequacy to those circumstances took place within the external business environment can make the system (including the franchising one) to be the stable enough even in the conditions of the

crisis turbulence.

Classification of the franchise business structures with the breakdown on a character of interlinks between the systems components may be given as follows.

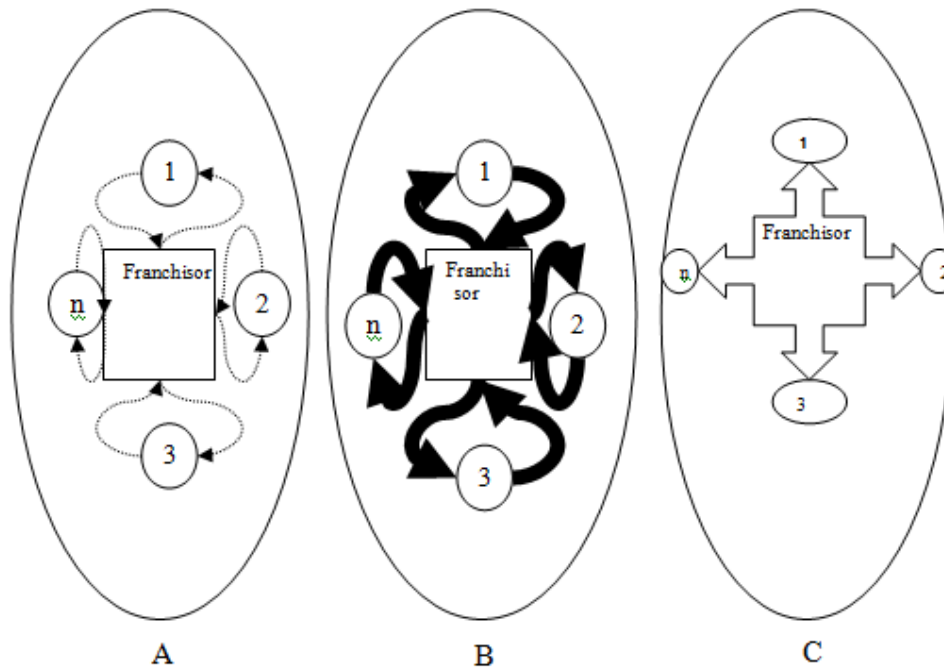


Fig. 1. Franchising Formats:

- A – commercial-format “products/trade mark”;
- B – business-format;
- C – hollow format.

Socio-economic systems of various formats which are represented on Figure 1 have the following specific features:

- General participation of its Members;
- Common initiative;
- General number of common practices, formalized and unformalized rules of conduct and knowledge.

In general it is the content of *meso-system*: internal content and nature of relationships including the interconnection between the participants of franchising, organizational and industrial relations.

In the first case (Figure 1 – “A”) the meso - system of organizational relationships is mainly based on the formalized

structure – Distributing Agreement. The relationships between the Franchisor and Franchisee are not seemed to be strong enough (see the dotted lines).

In the second case - "B" - (business format) - formalization of the structure of relations is based on attraction of the Franchisees into the full cycle of economic activity of the Company - Franchisor.

In the case of the “hollow-type” franchising (Figure 1 – “C”) - the Franchisor’s product/services are the organizational and managerial relations it provides with involvement into the system (network) of those participants-franchisees from the production and sales sector, including the infrastructure required and etc.

The “hollow firm” - is not a classic but extremely promising franchising scheme of relationships. Such a firm is operating using its own brand, marketing service and sales system, but it produces nothing. Absence of the production base makes the hollow-type firm to be very mobile, i.e. it can easily change the markets or work on several markets simultaneously. Hollow-type firms are very important in creating new markets as well as on those markets with the fast-changing market conditions.

The particular example of variation of the hollow-type firm-franchisor is the Kazakh firm “ShBS”. “ShBS” has developed a unique format of the franchise – “workplace” – “Showcase”. The showcase is designated for promotion and sales (both on Kazakhstani and foreign markets) of high-tech health care products manufactured by the South Korean Producer [4].

Franchising systems have a very large energy and information sense mainly because they are based on the direct share with traditions, knowledge and technology. As a result we can use not only the stereotypes both of everyday and labor conduct, but also the “ancient traditions” which are organically interwoven with the reality. The history is full of business ideas. And among the potential links to these ideas we have the ethnic Kazakhs going back to their historic homeland.

It is known that in XVI century the economy of Kazakhs was mainly based on various types of crafts the majority of which was connected with handling and processing the stock-breeding products. At all times the Kazakhs were engaged both in leather and felt fabricating process as well as in painting thereof in different colors using the techniques of pressing, applications and ornamental stitching. According to Ibn Ruzbihan’s words, the Kazakhs had produced different multi-colored felted fabrics with unusual ornaments and very elegant and beautiful raw-

edge belts. The Ottoman author of XVI century, Seifi Chelebi, also had confirmed that the Kazakhs achieved a rather high level in their domestic crafts. “Their (Kazakhs) caftans are made of the basil and painted in different colors that make them look like satin. They are water-and-moisture-proof mainly due to the properties of some herbs growing there, which are used for treatment of the leather” [5].

“Well-forgotten past” in the modern technological format is able to give an existence of many business ideas, successful promotion of which is possible, including within the frameworks of the hollow-type franchising.

Informal communicative relations arising between the participants are one of the prerequisites of franchising relationships stability (in all presented formats).

Without trust of the stakeholders the business would not survive, which in ex-Soviet countries is very remarkable because individuals are trying to create successful small business in a social climate with the lack of trust and other elements of social capital and civil society. It is a known fact that communities and societies with high levels of social capital and trust, compared to those with low levels of social capital, are much likely to be open, fluid, creative, effective and efficient in economic and community endeavors.

Kazakhstani entrepreneurs fully appreciate the role of trust in their efforts to create sustainable enterprises. Trust creation has a two-fold impact. First, it is crucial for the establishment of sustainable economic (and social) relationships. Second, trust creation, leading to meaningful associations with fellow human beings, is a natural phenomenon and necessary for total individual fulfillment.

As noted by experts, one of the major mistakes of the franchisors is that having sold a franchise, they do not consider it necessary to *continuously* monitor the development of established franchising

system [6].

In our view, the following aspects are basically important.

First, definitions “to monitor” and “to control” mean, in this case, not so much supervision of franchisee as adjustment in accordance with market situation:

a) and actions of franchisor itself (its policy);

б) and actions of franchisee.

In other words, purpose of monitoring carried out by franchiser is adequate response from all participants (both parties) of franchising relations to changes in the market.

Secondly, the franchiser shall remember that users accept each franchisee-entity as a part, a link of a whole circuit; they are combined by united trademark. And if only one of the franchisee makes a miscount in its activity – it will be able to reflect negatively on the whole franchising system (“The chain is not stronger than its weakest link”).

In conditions of financial and economic crisis contradictions typical for franchising relations become inevitably sharp. One of the problems is to provide confidentiality of the commercial secret, which content is the franchiser’s intellectual property. As required by Civil Code of the Republic of Kazakhstan and Law of RK “About complex entrepreneur license (franchising)”, it is assumed to transfer the right to use by the franchisee the trade name and other franchiser’s intellectual properties.

The information both (i) protected by patents of invention, useful models and industrial designs, and (ii) know-how protected within the frameworks of commercial secret protection, shall be transferred.

In this case, the following is basically important. “Know-how” transferred on the right of use loses its status as it cannot be recognized as “know-how” information to which there is free (though lawfully) access for third persons. Indeed,

experience shows that although the franchising agreement prohibits the franchisee to disclose such information, it still happens.

Does it mean that the franchiser-owner loses the right to protect the confidentiality of certain information (“know-how”) and take steps to protect it? No, on the contrary, this right must be active, since it serves as one of the motives (in particular, for the franchisee) for long-term business partnership with the franchiser-company.

It’s other matter that the protected “know-how” by the franchiser should not restrict the direct business activities of the franchisee. Here the secrets between the partners cannot be, because it reduces the effectiveness of the entire system.

Then what is the franchiser’s intellectual power? The franchiser’s “know-how” should be identified, secured and enclosed, mainly, in the field of organizational and managerial mechanism, providing the support and the progressive development of the franchising system as a whole. How, what techniques, methods, tools and methodology used by the franchiser to maintain the stability and efficiency of the system - is its “kitchen”, and the things are created here that attract more and more new franchisees into the system.

An important recommendation for franchisers is the urgency of careful approach to selection of entrepreneurs - the potential franchisees.

It should be noted that the risks of participants’ misconduct in the franchising relationships correspond to the international business community. Considering the age of “start up” of Kazakhstan franchising, it’s especially urgent the problem, how the franchisers can protect their business against unfair attacks from franchisees, and how, in its turn, to prevent the franchisees’ risks.

One solution - the use of pre-testing

techniques for partners with respect to their readiness and adjustment for effective interaction. Such techniques allow:

- 1) to minimize the subjectivity of the respondents' self-rating;
- 2) to identify the system of values, allowing to carry out a preliminary assessment of the compatibility of the project participants;
- 3) to make a preliminary assessment of the project participants' trainability potential;
- 4) to identify the most popular training areas.

There is another serious contradiction, enclosed in the franchising nature. On the one hand, franchisees, members of the same system, are partners interested in developing of this system as a whole. On the other hand, they are supplying to the market (often working at a local market) the same goods / services.

Creation of such mechanism of interaction between the franchisee within the system, who is able to provide the synergy of cooperation, partnership, is especially valuable in the crisis conditions. This is the franchiser's mission, and it's organizational and management skills, working for the capitalization of the brand, can be disclosed here.

Due to problems of overcoming the financial crisis it is important to pay attention to another aspect. Reproduction of business structures in the format, called as franchising, has a great energy-informative sense in the context of the economic activity evolution.

Thanks to the reproduction process we can see the accumulation of innovative energy into the business environment and its further promotion. It is known that it is the basis for shifting the equilibrium being special for crisis situations and going on trajectory of the economic growth. The transfer of organizational and managerial techniques is not impeding, but on the

contrary, stimulating the innovative activities of Franchisees (in comparison with the transfer of other technologies requiring the "retranslation" skills of the receiving party only).

Franchising – is a large-scale coaching in the framework of real ("field") business conditions of this or that country.

Business reproduction in the franchising format – it is not a "cloning" process: country factors (legislation, consumer preferences, etc.) require from the participants to have the same business skills – evaluation of business-idea risks; its development taking into account the special factors of both local and national market, etc. Therefore, the franchising being the coaching – is the process of simultaneous training of all the parties-participants or members.

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FREE TRADE: PROS AND CONS

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For several centuries free trade has always been viewed as the best trade policy among countries. Blinder [1992] states that despite this intellectual barrage, many “practical” men and women continued to view the case for free trade sceptically, as an abstract argument made by ivory tower economists with, at most, one foot on terra firma. This point of view was based upon the conviction that industries had to be protected from foreign competition. Blinder [1992] says that the divergence between economists’ beliefs and those of men and women on the street seems to arise in making the leap from individuals to nations. In running our personal affairs, virtually all of us exploit the advantages of free trade and comparative advantage without thinking twice.

The value of free trade was first observed and documented by Adam Smith. In 1776 he wrote in his “The Wealth of Nations”: “If a foreign country can supply us with a commodity cheaper than we ourselves can make it, better buy it of them with some part of the produce of our own industry, employed in a way in which we have some advantage”. Free trade is a system in which goods, capital, and labour flow freely between nations, without barriers which could hinder the trade process. Many nations have free trade agreements, and several international organizations promote free trade between their members. There are a number of arguments both for and against this practice, from a range of economists, politicians, industries, and social scientists [Smith undated]. The most important general trade agreement is the General Agreement on Tariffs and Trade (GATT) signed in October 1947 to liberalize trade, to create an organization to administer more liberal trade agreements, and to establish a mechanism for resolving

trade disputes. The most significant free trade zones are the European Union (EU), the North American Free Trade Agreement (NAFTA), and the Association of Southeast Asian Nations (ASEAN). World Trade Organization (WTO) is a global organization for regulating trade agreements, trade negotiations and resolving trade disputes.

So what is free trade? It is supported by most economists. What are its pros and cons? What arguments are there in favour of free trade? What arguments are there to support the contrary? Let us have a more precise look at the matter.

Free trade: general notion

Smith [undated] defines free trade as a system in which goods, capital, and labour flow freely between nations, without barriers which could hinder the trade process. Many nations have free trade agreements, and several international organizations promote free trade among their members. There are a number of arguments both for and against this practice, from a range of economists, politicians, industries, and social scientists. Krugman and Obstfeld [2009] say restrictions on the flow of currency are also lifted, as are regulations which could be considered a barrier to free trade. Put simply, free trade enables foreign companies to trade just as efficiently, easily, and effectively as domestic producers. Free trade as a positive economic effect was first marked by Adam Smith in “The Wealth of Nations” in 1776. Another economist, David Ricardo, studied the matter of free trade and its benefits by presenting a specialized economic proof featuring a single factor of production with constant productivity of labour in two goods, but with relative productivity between the goods different

across two countries. Krugman and Obstfeld [2009] give a good notion of the Ricardian model that demonstrated the benefits of trading via specialization - states could acquire more than their labour alone would permit them to produce which formed then one of the fundamental laws of economics: The Law of Comparative Advantage. Under a policy of free trade, trade via specialization maximizes labour, wealth and quantity of goods produce, exceeding what an equal number of autarkic states could produce. As mentioned by Krugman and Obstfeld [2009] under a free trade policy, prices are a reflection of true supply and demand, and are the sole determinant of resource allocation. The authors [Krugman, Obstfeld 2009] report that interventions include subsidies, taxes and tariffs, non-tariff barriers, such as regulatory legislation and quotas, and even inter-government managed trade agreements such as the North American Free Trade Agreement (NAFTA) and Central America Free Trade Agreement (CAFTA) and any governmental market intervention resulting in artificial prices.

Many classical liberals, especially in Britain in the 19th and early 20th century (e.g. John Stuart Mill) and in the United States in the 20th century (e.g. Cordell Hull), believed that free trade promoted peace. All economists agree on the point that free trade possesses the following features: possibility of no-tax trade of goods (including tariffs), quotas on imports, etc; no-tax trade in services; absence of taxes, subsidies, regulations, or laws that give some factors of production an advantage over others; free access to market and market information; free movement of labour and capital between and within countries. At the same time there is a large matter for debate.

Arguments in favour of free trade

The first set of pro-arguments is essentially economic, that free trade will

make society more prosperous by increasing the global level of output through specialization. Specialization allows nations to devote their scarce resources to the production of the particular goods and services for which that nation has a comparative advantage, and subsequently increase the global production possibility frontier. The other set of arguments for free trade could be classified as "moral" arguments based on the right of every person to exchange freely the result of his labour for the productions of other people. Many economists suppose that increased free trade is the best way to overcome extreme poverty in the world and enhance national security. The Economics Help Website [2010] reports that theory of comparative advantage explains that by specialising in goods where countries have a lower opportunity cost, there can be an increase in economic welfare for all countries. Being an engine of growth free trade also increases such spheres as export and competition and makes use of surplus raw materials.

For example, Middle Eastern countries such as Qatar are very rich in reserves of oil but without trade there would be not much benefit in having so much oil. Japan on the other hand has very few raw materials without trade it would be very poor [Economics Help Website 2010]. Besides it gives third-world farmers an opportunity for an actual life, having a fairly-paid wage for their job promoting good farming, as a lot of fair-trade produce is also organic. Specialization generates the highest level of production of the two goods. Then, through trade, each nation can consume the amount of the good that it wants to consume. In this way, production is maximized because each nation is doing what it does most efficiently. The benefits of economies of scale will ultimately lead to lower prices for consumers. In 2001, during the height of free market protests and support, the "Economist" journal ar-

gued in favour of free markets by looking at some of the points from whom they call “anti-globalists”: developed countries grow rich by selling capital-intensive products for a high price and buying labour-intensive products for a low price. This imbalance of trade expands the gap between rich and poor. The wealthy sell products to be consumed, not tools to produce. This maintains the monopolization of the tools of production, and assures a continued market for the product. Thus a multiplier effect of their money would be created as it circulates around their economy, and wealth in the poor country would be created more rapidly. Free trade and free markets are essentially about making trade easier by allowing the market to balance needs, supply and demand. Within a nation, it can be a positive engine for development. Though, the current system in its reality is hardly the free trade that the theories describe.

Arguments against of free trade

It is common to hear of today’s world economic system as being “free trade” or “globalization”. Socialists frequently oppose free trade on the ground that it allows maximum exploitation of workers by capital. To those who oppose socialism, this becomes an argument against free trade. According to Shah [2006] such ideas as markets being self-balancing to meet supply and demand, while increasing prosperity for those who participate freely sounds very appealing, in theory. However there are increasing concerns that go to the heart of the system itself such as: What about the reality of the current form of globalization, compared to the theory? How has it affected various segments of society around the world? What has been the impact on the environment? Is it even free trade? Shah [2006] underlines, these types of concerns had a consequence of criticisms of the current form of globalization, and given a bad

name to “free trade” and “free market capitalism” in various circles.

Smith [2003, pp. 4-5] expresses concern, so long as weak nations could be forced to accept the unequal trades of Adam Smith free trade, they would be handing their wealth to the imperial-centres-of-capital of their own free will. In short, Adam Smith free trade, as established by neo-mercantilists, was only mercantilism hiding under the cover of free trade. Nowadays everything is more complicated too. We have, for example, products being exported from the poorer countries. However, with labour being paid less than their fair wages in the poorer nations, wealth is still accumulated by the richer nations. While it might appear that free trade is taking place, the wealth that is accumulated by the richer countries suggests this is still the age-old mercantilism process being played over again; a system that Adam Smith criticized so much [Shah 2006].

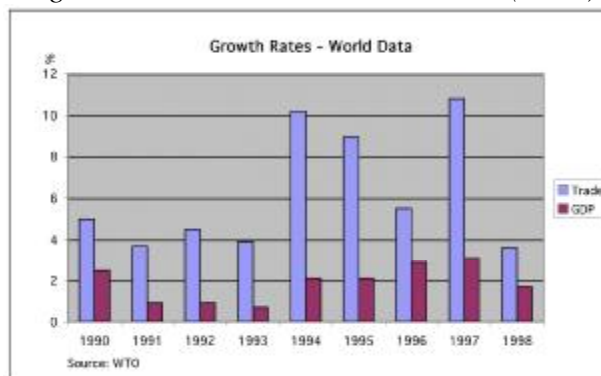
Economic arguments against free trade criticize the assumptions or conclusions of economic theories saying that free trade benefits only the wealthy within countries. Within the free trade sphere companies produce goods in less-developed countries where environmental and labour standards imposed are lower. According to Bunzl [1999, pp. 17 – 21] it is far from some altruistic motive to see those in poor countries improve their lot and thus narrow the gap between rich and poor, globalisation therefore merely serves as an efficient, low-cost method for TNCs to take advantage of low taxes, weak regulations and vulnerable labour whilst penetrating the economies of developing countries. Another disadvantage of produced by free trade is eliminating of traditional ways of living and rural cultures. There is also the Infant Industry Argument suggested on the Economics Help Website [2010]: if developing countries have industries that are relatively new, then at the

moment these industries would struggle against international competition. Another argument is that of the senile industry: if industries are declining and inefficient they may require large investment to make them efficient again. Protection for these industries would act as an incentive to for firms to invest and reinvent themselves.

Free-traders contend that exports

foster economic growth. If it is valid, then growth in world trade should correspond with growth in world GDP. But if we take recent period when world trade was increasing at a rapid rate and for which statistics are available: 1990 – 1998, we see that while trade increased world GDP grew very slowly (see Figure 1 Growth Rates – World Data).

Figure 1 Growth Rates – World Data (WTO)



Therefore free trade development does not make any significant influence on the GDP growth. The global financial crisis, brewing for a while, really started to show its effects in the middle of 2007 and into 2008. A number of countries have spoken out against the WTO saying that there needs to be more co-operation between the North and South (a general term to refer to the Rich and Developing countries, respectively) with regards to international trade. All these reasons build up a serious argument against the free trade policy.

Net benefits of free trade

In my opinion most free traders would agree that although increasing returns to scale might mean that certain industry could in settle in a geographical area without any strong economic reason derived from comparative advantage, this is not a reason to argue against free trade because the absolute level of output enjoyed by both "winner" and "loser" will increase with the "winner" gaining more than the "loser" but both gaining more

than before in an absolute level. Krugman [2008] suggests that protectionism may be necessary for a while as these are not normal conditions where the case for protectionism may be on weaker grounds, at least for industrialized nations. Some economists criticize the WTO's definition of "free trade" as too narrow. Free trade implies specialized industries and economic change that can lead to strains and considerable changes to traditional economic and political systems and, according to Friedman [1999, p. 240], an analysis comparable to the risk-return spectrum of free trade with respect to both country and careers is an area in need of further research. According to the U.S. International Trade Commission, for example, the U.S. gain from removing trade restrictions on textiles and apparel would have been almost twelve billion dollars in 2002 alone. This is a net economic gain after deducting the losses to firms and workers in the domestic industry. The best possible outcome of trade negotiations is a multilateral agreement that includes all major trading

countries allowing many participants to achieve the greatest possible gains from trade. After World War II, the United States helped found the General Agreement on Tariffs and Trade (GATT), which quickly became the world's most important multilateral trade arrangement. Another example is the annual gain from removal of tariff and non-tariff barriers to trade as a result of the Uruguay Round Agreement (negotiated under the auspices of the GATT between 1986 and 1993) that was put at about \$96 billion, or 0.4 percent of world GDP [Irwin 2008].

Gains from trade in economics refer to net benefits to agents from voluntary trading with each other. As for the Republic of Kazakhstan, free trade proved itself as an efficient economic model. Kazakhstan is a member of the Single Economic Space, signed on September 19th, 2003 during a CIS Summit in Yalta. On 15 April 1994 in Moscow an agreement was signed to create a free trade area between Azerbaijan, Armenia, Belarus, Georgia, Moldova, Kazakhstan, the Russian Federation, Ukraine, Uzbekistan, Tajikistan and the Kyrgyz Republic confirming their adherence to free development of a mutual economic cooperation. Besides Kazakhstan signed such cooperation agreements on free as: Agreement on Foundation of Eurasian Economic Community; Agreement on Free Trade between the Government of Georgia and the Government of the Republic of Kazakhstan, etc. Ministerial statement was agreed between New Zealand, Russia and its Customs Union partners Belarus and Kazakhstan to commence negotiations on a comprehensive and modern Free Trade Agreement (FTA), and to complete these negotiations by the end of 2011 [New Zealand Ministry of Foreign Affairs and Trade Website 2010]. Some experts fear that such free trade zones could hurt some investment projects. But an important advantage is the creation of the common juridical basis,

license rules and non-tariff regulations that provides an easier process of movements of goods removing trade barriers. GDP growth of 6% is projected for 2011-2015 in Kazakhstan, and much is expected from the free trade agreements.

Free trade is one of the most debated topics in economics of the 19th, 20th, and 21st century. Arguments over free trade can be divided into economic, moral, and socio-political arguments. Friedman [1999, p. 240] states, the academic debate among economists is currently settled in favour of free trade, with a consensus having existed since at least the 1960s, based on theories dating to the 18th century. The idea behind free trade is that it will lower prices for goods and services by promoting competition. Domestic producers will no longer be able to rely on government subsidies and other forms of assistance, including quotas which essentially force citizens to buy from domestic producers, while foreign companies can make inroads on new markets when barriers to trade are lifted. In addition to reducing prices, free trade is also supposed to encourage innovation, since competition between companies sparks a need to come up with innovative products and solutions to capture market share. Free trade can also foster international cooperation, by encouraging nations to freely exchange goods and citizens. In free market economies, for example, people are expected to move to where jobs can be found, and to adjust their work lives and cultural tastes to the demands of a global market [Alexander 2001]. Agreements between trading partners can also promote educational advantages, such as sending engineers to train with people in the top of the engineering field in one nation, or sending agriculture experts to rural areas to teach people about new farming techniques and food safety practices.

Free trade implies specialized industries and economic change that can lead to

strains and considerable changes to traditional economic and political systems. There is no doubt that the world is becoming more and more globalized, and the process is going on very quickly, with free trade being one of its features. Today, most arguments against free international trade are raised by special interest groups. When speaking about globalization issues Shah [2006] supposes that the interests of powerful nations and corporations are shaping the terms of world trade. In democratic countries, they are shaping and affecting the ability of elected leaders to make decisions in the interests of their people.

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TOWARDS HARMONY OF SOCIETY AND ECONOMY OR TRIUMPH OF GOOD OVER EVIL

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The universal law of harmony is valid in the Universe, nature, and human society. Certainly, this law is also in the economy from which it cannot be excluded.

In the modern society there are four most important processes to be combined: development of democracy, demography, spirituality, and economic activity. They all are finally connected in the satisfaction of spiritual and material needs of individuals and societies. Ideally all aspects of social life are in harmony so that they create the best conditions for the stable growth of the economy and fair business as well as for the whole social progress. Each of these aspects is well known in economics, political science, demography, sociology, science of culture, science of religion, science of science, etc. Each science studies its “own” subject of research. Thus, the whole is divided into pieces. Small attention is paid to synthesis of the results of the individual sciences, in essence. That is why the narrow and technocratic view in economics prevails. Attention is paid only to superficial events, and the deep essence is not revealed.

Thus, it becomes obvious that the mortgage crisis, which supposedly was the start of the financial crisis in the USA; and subsequent world shocks having flared up are only the peak of the “iceberg”, the deep reason is in society, namely in worldview and behavior of individuals and societies.

Different levels of economic crises (household, corporate, industrial, national, regional, and world crises) are consequences of the initial cause. We adhere to this non-linear, i.e. extended and profound approach.

The Search for Harmony is among

eternal problems. The web of questions and only a few answers: what harmony is (if this notion is universal?) and if it can be achieved at all in socio-economic structure. If yes, then what are its signs and criteria; does any algorithm of its achievement exist?

Harmony is a multivariate notion and, in general, harmony conditions are not thoroughly investigated. The paradigm and philosophy of the social system development is its harmony defined as the essential connection between proportionality of and unity of parts of the whole, but on the basis of spirituality and morality. The spiritual aspect is the core of harmonization of the social system.

The nature of the human society and separate individual does not endure long-term disharmony. The system degrades in disharmony and strives for self-destruction. The ultimate reason of disappearance of whole ethnicities in the past lies here, and the basis of the reason is spiritual impoverishment reigning in the community.

Harmony is a spiritual and cultural guideline that leads to understanding of the universe (both as a whole and by fragments), socio-economic system, and the man from the position of their essential internal interconnection, orderliness, and proportionality. The unity and essence of harmony of the social system is here as a whole.

The basic and background harmony is a proportion between material and non-material needs of individuals and society, which arises on the basis of high spirituality – foundation of their whole life. It can be formed between the human community (its needs) as a whole and economy acting simultaneously as both sub-system of the

society and holistic system. Individual harmonies are set inside the social system.

As a rule, for harmonic personality, harmony of group of people, and community as a whole, the following characteristics are common:

1) A whole spectrum of fairly justified (rational) needs is presented;

2) Moderation in consumption (optimality). Criterion of optimum: realization of needs of the participant without damage to interests of other participants. Poverty and wealth are extremities conflicting with the harmony;

3) Effective mobilization of internal resources (personal, group, society). "Life in debt" contradicts the spirit of harmony;

4) Rational use of external (borrowed) resources, including natural ones (taking into account interests of not only current living, but that of future generations as well);

5) Cooperation and tolerance.

Spirituality is to be interwoven with cloth of all constituents of social life. Unfortunately, this does not happen in most countries of the world. In particular, deep spiritual crisis suffered by the humanity is seen in the crisis of the financial system on a global scale.

Now in modern communities spiritual aspect is "the weak link". This is also a problem of Kazakhstani society, where like in all countries coming out from the socialist camp, the change of value "poles" happened.

The need for not only understanding but implementing the scheme that returns to a natural position in the pyramid of priorities, when the spiritual aspect in all its diversity serves as a peculiar core of the society, seems to be fair. In turn, similar "spiritual constituent" of the society gives rise to the mechanism of harmonization of mesosystem – interaction of systems, sub-systems, etc.

Louise Ortega writes that in the modern culture the conflict between the

spiritual and technical aspects of civilization strengthens. The technical progress is not accompanied by the progress of ethics and morality. The nature of the progress is conjectural, it seems to be doubtful, and often acts as a threat, and not only as demonstration of actual technology, for the culture. Today the humanity does not observe limits of even elementary and protective priority of ethics over technology. This is the main violation of Human Rights [p. 1].

One can agree with the author making the following more precise: the spiritual development is not only the thesis of inequality, but it assumes a big spectrum of spiritual values (education, science, culture, etc.), the core of which is personal faith of the man, that should be at least acknowledged by us, scientists.

We shall try to answer the eternal question of intellectuals: what a harmonic society is. The harmony in society means full conformity between spiritual-moral, democratic, demographic and economic development of the country. All these four aspects of life of society operate synchronously, fully intertwined. Lagging behind or absence of any of them, which is even worse, makes harmony in a society impossible. A special role is played by spiritual and moral development of individuals and societies as a whole. Spirituality and morality, as the whole history of humanity shows, make the basis (foundation) of society and existence of its civilization. The whole structure of welfare of the society is built just on that. Ignoring this fact can cause unfortunate consequences for civilization.

Disharmony is the frustration of life of a society, absence of coordination and conformity between its different aspects, and, as the main issue, rejection of requirements of the Creator of life on the Earth. This is a total comprehensive disharmony. In different parts and aspects of social life including economic activity,

different disharmonies can arise. These are particular disharmonies. In economic sphere, disharmonies can include, for example, total aspiration for maximization of incomes (profit) to the prejudice of environment and health of population or at the expense of unjustified growth of prices for goods and services, occurrence of speculative business, shady sector of economy and corruption, different financial pyramids, credits with interests, etc. That is, consequences of spiritual impoverishment and immorality in economic sphere are diversified. Their essence is single – contradiction between constantly growing and non-regulated material needs and lagging behind spiritual and moral needs of individuals and society. This is the main disharmony in the society, which is divided into many particular disharmonies in the economic system.

Harmonic society is a society in which all four aspects of its life, i.e. economic activity, democratic, demographic and spiritual-and-moral development are interconnected and moderately developed, and extremities are absent in any of them. At that, spiritual and moral values make the basis (foundation) of the whole human society. If such basis is absent in the society or is insufficient, then only this circumstance makes the society and all its spheres disharmonious, and, accordingly, unstable, and finally subjected to the threat of destruction. Harmonic society cannot do without harmonic economy, harmonic democracy, harmonic demography, and harmonic spirituality and morality. Harmonic economy can be understood as economy able to satisfy the whole range of reasonable material needs of the absolute majority of individuals in the society in moderate scopes in accordance with labor performed, without accumulation of super-riches and without accumulation of poverty, developing evolutionally and stably, on the basis of high spirituality and morality of the society. Harmonic economy

needs frequent deep changes and stable conditions, as well as slow progress. Such economy develops without “overheating” and “economic miracle”, but at the same time without “stagnation”. The medium vector and medium rate of progress in all the useful, reasonable and rational are organically peculiar for it. Harmonic economy is not “saving” or “innovative-industrial”, or “smart”, or “efficient”, or “liberal”, or “state”, or “market”, or any other economy with other characteristics, harmonic economy is all of the above listed taken together in their multivariable conjunction and in a single direction. But multivariable nature is not sufficient for full harmony, if economic development is not combined with democratic, demographic and demoitihic (spiritualic-and-moralic) progress of society (the 3 “D” as translated from Russian – foundation and two supports of economy). Its other definition can be expressed as “new social economy”, that was stated in more details in books “Social economy” [2, p. 74], “Socialization in economy: from individual to the state” [3, p. 15-16]. New social economy in contrast to existing economic models assumes harmony from setting final purpose of economic system to methods of its achievements, from macroeconomics to firms and households, as being characteristic for it.

The concept of harmony calls for keeping the limits. People know about the sense of harmony from old times. Unfortunately, in some aspects economics has not come to the level of understanding common people, which is a result of neglecting influence of mentality of individuals on economic activity, passion for excessive abstractions, “beautiful” pictures and formulas, i.e. simplified realities and narrow technocracy. Such method only suits for use at initial courses of economics. But it is not useful, so to say, in practical activity. It is not seldom when graduates of the most well-known world univer-

sities learning economics upon simplified schemes, additionally study at scientific institutes, business structures, and power authorities. The author had to face such phenomena.

Harmonization of life of society and its economic activity is the method of achievement of long-term stability and competitiveness of economy bringing it closer to dynamic balance, and prevention of sharp instability and crises. Its creative role is not limited by that, but extended to the whole civilization of countries and continents. Harmony is the way of civilized progress that protects against disappearance of civilization that has happened not once in the history of humanity because of deep disharmonies.

Accordingly, there is no alternative to harmonic development of society and its economy in any interval of time of any duration. In short-term period, those or other separate harmonic conditions in economic system, especially in its subsystems, are possible. However, unfortunately these are rare and rapidly passing episodes of welfare, “instant happiness”, as they can appear and disappear in long-term and distressful evolution of the system. It should be marked that in this case we speak not about true harmonies, in essence, but about quasi-harmonies which have no solid foundation – spiritual and moral basis. Comprehending these realities, power, civil institutions, and business as the main thing all individuals can and are to make their choice in favor of harmonization of all aspects of life, certainly including economic activity.

Harmonization of economy, in which market and non-market mechanisms operate, has fundamental meaning. In modern economics and practice the thesis stating that economic system, in particular, sphere of consumption, can be and is to be harmonized by means of regulation of the market by the state irrespective of the state of spirituality and morality of the society,

is often expressed. Is strengthening of the governmental interference into this sphere able to stabilize economy and prevent its crises? In our opinion, it is not able. In conditions of spiritual impoverishment and immorality of individuals, it gives only temporary effect and can bring to even a social explosion after a certain time. How? Let us consider such event, for example, as the rise of needs, where different forces oppose each other which can lead to conflict. What forces are we talking about? On one hand, it is internal and very mighty motive of individuals to maximally possible obtaining material benefits and to accumulation of money, desirably by easy way without adequate labor contribution. It receives wide spectrum for its manifestation at absence of spirituality and morality, and spiritual-and-moral regulator of its economic behavior. Domination of material enrichment ideology, building of the society of super-consumption separately of spiritual and moral improvement of individuals in society pours water to the mill of individuals-consumers. On the other hand, this is external force of limiting consumer behavior of individuals through the state regulation of the total demand. But the problem is that the state machinery is not able to oppose extreme, unreasonable, and consumer aspirations of people, if it tries, for example, to limit the growth of consumers. In this hypothetical meaning, the struggle of mass against power would finish with obviously social explosion, solving the conflict in favor of social “lower classes”, as “upper classes” are often also infected with “economic virus of super-enrichment.” That is why the state regulation of economy, in particular, the sphere of consumers and consumption, or overconsumption if to speak more precisely, cannot fully supersede the factor of spirituality and morality – foundation of harmonic life on our Earth. It can bring to partial and temporary result, but not more, as attention is paid only to the conse-

quence of the negative phenomenon, and its reason remains beyond influence. It is illusion to rely on ability of the state regulation of the market economy to achieve long-term stability of economic development. Without solid basis any system is unstable like a house without a foundation in a seismic zone.

Modern societies and their economic systems in the range of states of the world are subjected to instabilities, and contain big risks of permanent crises. The global crisis taking place demonstrates this trend. Big part of the world economy has found itself in the state of deep instabilities. Global economy reminds the "pyramid" turned over. It has no wide spiritual and moral basis and it lies on one point; due to that the system can come to and often comes to instability even at insignificant impacts. The deep reason of sharp bifurcation is in disharmony between growing needs in material benefits and lagging behind spiritual and moral level of individuals and society. Low spirituality opens the way to the world of criminality, immorality, profiteering, corruption, and other negative phenomena for many individuals. And this is in spite of the fact that in many countries of the world they try to compensate the lack of spirituality and morality by strengthening the role of laws and legal acts. For this purpose, they create manifold system of state power with mighty law enforcement, and punitive structures, and economic departments. The expensive machinery of management and power is kept at the expense of budget means coming from taxpayers. However, irrespective of the state costs in control and regulation of life, reasons and consequences of spiritual impoverishment and immorality cannot be fully liquidated. It is impossible, in principle. Spiritual impoverishment can be overthrown only by spirituality, i.e. by change of the internal world of individuals, strengthening their personal faith, and all constituents of spirituality and morality

(education, science, culture, bringing up, and many other aspects) on this basis. But the effect is received incomplete and short-term. Economic "virus" of super-enrichment is cured only by growth of spirituality and morality. Isn't it seen from realities of Islamic world, where there is no ideology of super-enrichment?

Harmonic economy is formed by transformation of existing national models. This transformation process, i.e. harmonization of economy, is long-term and stage-by-stage.

Basic criteria of harmonic economy include:

- Production of goods and rendering services, satisfaction of reasonable needs of individuals and society, excluding consumption of alcohol, tobacco, drugs, gambling, and other harmful habits;

- Formation of incomes on the basis of labor activity without excessiveness in amounts, especially in prices for goods and services; both too high monopoly prices and too low prices, which infringe the principle of fairness, are not harmonic. The principle of maximization of profit at the expense of deterioration of ecology, causing harm to individuals and population conflicts with the principle of harmony of all aspects of economic activity;

- Speculating constituent of business is practically absent;

- Borrowing of financial resources are not excessive and are not connected with the interest mechanism, and are possible in conditions of partnership of banks and companies, and strengthening trust between subjects of economy;

- Shady business, corruption, other manifestations of spiritual impoverishment came to naught; business is transparent and honest;

- Harmonic economy is very far from what is peculiar for modern state of the economic system, its negative trends and disharmonies. The progress in economic evolution is in movement to har-

monic economy as the strategic purpose of the society;

- Harmonic economy is limited in space by borders of states due to inequality of location of natural resources upon regions and countries of the world, and different level of production forces. Unfortunately, such economy cannot appear everywhere and simultaneously. Every state or unions of states have their own way of development. Countries with rich natural resources, fertile lands, and favorable climate and transport conditions, with developed spirituality, democracy, demography, human capital, high innovative potential, and diversified national economy have more chances;

- The task is very difficult, but rather real. Personal and public mind is changeable, is permanently in evolution and not free from spasmodic changes. Judging by public processes existing in our time, the

next qualitative turning point in world view of individuals and spiritual renewal of society is not far. In the author's opinion, harmony of society and economy assumes transfer to principles of Islamic economic model and finance as its benchmark. The beginning of future harmonic world structure, partnership of civilizations, and the way to triumph of Good in life of humanity is in that model.

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ECONOMIC DEVELOPMENT DURING THE POST CRISIS PERIOD (CHOOSING A MODEL)

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The Message of the Head of the state to the people of Kazakhstan detailed plans for the development of the country for the foreseeable future (1). The existing economic crisis requires that our state temporarily suspend some ambitious projects and, as much as possible, to concentrate on the most urgent internal affairs, revealing and making anticipatory decisions for problems in the economic and social sphere.

It is logical that each new stage in the life of a country demands certain judgments and corresponding adjustments. Former sources of economic growth, as realities show, no longer give strong guarantees of development. It is therefore nec-

essary to search for new sources of growth. During the post crisis period the Kazakhstan economy should move beyond finding a basic orientation and find a new place in the context of world labor division. It should become hi-tech and developed in all spheres. It should, therefore, lean on advanced achievements of science and technology, efficient control of economic processes and in education systems, which advance innovative thinking.

As a whole, for anti-recessionary purposes, over two billions seven hundred billions tenge was added to be directed to the national economy. These funds will be aimed at the formation, as much as possible, of an effective system of stimulus de-

velopment and support of the social sector. And that is all at the expense of domestic, internal sources. Against the countries of Central Asia, and many other states of the post-Soviet territory leaving crisis, including at the expense of external loans, such policy unequivocally underlines powerful potential of possibilities of our republic.

Strengthening its own economy, Kazakhstan actively takes part in searching for ways to overcome the crisis internationally. In particular, our country together with the Russian Federation participates in realization of the project of joint anti-recessionary fund with the capital in ten billions dollars; the decision, on which establishment was accepted in December of last year at a meeting of heads of Armenia, Kazakhstan, Kyrgyzstan, Russia and Tajikistan in the Borovoe. Sign innovations were offered by the Head of the state in article «Keys from crisis», and also during II Astaninsky economic forum (2).

Now it is necessary to look at quality and the government maintenance in a new fashion. Concentration of attention and efforts to a qualitative state administration economy of Kazakhstan to tighten backs, to prepare people, administrative resources and an infrastructure for the future jerk during the post crisis period. The problem of perception of crisis as original examination which really and objectively will show in what the country is strong in what has succeeded is thus put, and it is necessary to concentrate special attention to what directions of development.

In present conditions the strict financial discipline and very rational, careful approach in use of public funds are required. As a whole expediently resolutely to reduce unnecessary costs and superfluous expenditure everywhere, except for social sphere. Today also it is really important to make special emphasis on consecutive development of the human capital.

I consider that social policy of Ka-

zakhstan is obliged to increase in the basis a healthy economic kernel — gain mechanisms of the nation human capital. In the centre of any anti-recessionary programs there should be an ordinary citizen of Kazakhstan with its interests, problems and hopes. Only then the state will manage to direct energy of crisis on modernization. It appears, also is the major factor of social and economic processes, a course on complex development of the country in which the person with its vital interests is put, a family as a fundamental element of a society and a society as a uniform organism, for the sake of health and well-being exist both economy, power structures, and business.

During the difficult period nobody should remain in loneliness in the face of arising problems, here again, first of all, constant attention of the state to questions of employment, the help in workplace and training for a new profession search. And for this state plans to allocate not less than 140 billion tenge. As a whole for us waits responsible and hard work on strengthening of Kazakhstan and preparation of a reliable basis of a sustainable development during the post crisis period.

Growth and development –it is a thing far not the identical. Large escalating of scales of manufacture, notorious «gross national product per capita» is important any more. Economic growth – is a category of a leaving industrial epoch when development went mainly in a format of national economy. Globalization plus interaction of the industrial and postindustrial ways forming modern systems of quasi-national economies, is made by absolutely other system demands and criteria. Growth, and the qualitative increments increasing ability of economy to updating, to reaction to various external calls, to development in the conditions of sharply increased uncertainty becomes the main thing any more. In other words, accumulation of adaptable potential (development

equal to potential), integrating the organizational, human, financial, innovative, technological and reflective components becomes the key factor, allowing national economy flexibly to adapt for dynamical changes of the world economy, internal and external calls, resource restrictions, and national corporations – successfully to operate in the conditions of a global competition.

Basically, any national economy is put today before a strategic choice. The first alternative: to form and develop adaptable potential (if for this purpose there are possibilities). It is rather expensive, but allows to realize own national projects and to keep national identity. The second alternative: to refuse escalating of adaptable potential, becoming «the younger partner» in relation to this or that leader. It more cheaply and liberates resources for industrial growth. A payment for the given prize is partial refusal of the sovereignty and this or that form of economic loading («the technological rent»). The third alternative: in general to play by other rules, leaning against those or other resources (social, geopolitical, natural, etc.). This variant demands social mobilization (which efficiency is doubtful in modern conditions) and is fraught with the raised conflictness.

Border between the first and the second variants – first of all in overcoming possibility of “a competitiveness threshold” which in development process of technologies, the human capital, organization forms becomes more and more high and difficultly surmountable. Border between the second and third variants – available potential, readiness of elite for its mobilization and use for modernized break.

The world is in great need in an establishment of new system of the relations, new global “game rules” and control mechanisms. Promotion of two met projects became reaction to it. The first – financial

globalization as the tool of an establishment of a new order and the control, justified new institutes over national regulations. The second – mobilization of civilized resources and creation on this basis civilized development enclaves.

Formation of new financial mechanisms will essentially complicate escalating of adaptable potential for the countries having raw specialization. As fastening of the world prices for oil in a range 18-22 dollars for barrel (Urals) that on 15-20% below level of last one and a half-two year is in the foreseeable future probable. At the same time Kazakhstan has received unique possibility to carry out wide maneuver in the economic policy, aimed at modernization and escalating of innovative and adaptable potential – as today formation of a new steady world order is impossible without its active participation. The geopolitical format of a new world order should be supported with an adequate geo-economics format. In other words, “use” Kazakhstan as stability factor on the Eurasian space assumes, at least:

- Economic integration strengthening on space of the CIS;
- Removal of restrictions for integration in western, first of all European, economy “the Way to Europe” (3);

Today the Kazakhstan economy is not ready to such role. Transition to a high-grade mode of economic development assumes realization, at least, following conditions.

1) There should be a mechanism of the expanded interaction of industrial manufacture, incomes and a final demand (manufacture generates incomes; incomes, having passed on distribution and redistribution channels, form a final demand; final demand growth defines scales of expansion of manufacture). Now such mechanism for a variety of causes is absent.

2) The consensus of elite and leading social groups concerning the purposes of development and ways of their

achievement is required. Development is always accompanied structural fragile, re-distribution of resources, differentiation increase between economy segments, territories, social groups. The prize of one is accompanied by loss, at least relative, others. It, in particular, assumes clear characteristics of prospect: that concrete social groups, what price of growth and who will pay this price will win from economic growth of this or that type.

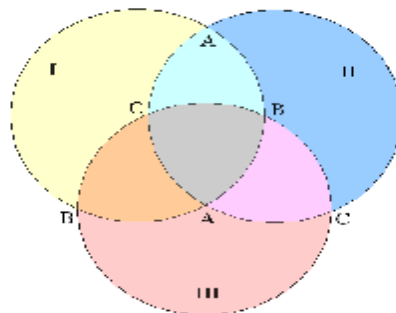
3) Vital prospects of mass social strata and groups, status possibilities, strategic interests should be closed on the development purpose. There should be new mechanisms of vertical social mobility. Only in such environment constructive enterprise motivations, investment impulses, social partnership are shown.

4) Formation of groups of the interconnected manufactures and the institutes forming system integrity, – possessing not only powerful potential of growth, but also sufficient critical weight for qualitative transformation of economy as a whole is necessary.

5) It is necessary to find a harmonious combination between economic development and embedding in process of economic globalization. The model of economic development is simultaneously and model of definition of a dominant of

geo-economics orientation of the country, realization of its comparative advantages, “playing” of its strategic resource in a world economy format.

6) At last, mobilization of structural, technological and social sources of increase of efficiency becomes not only the precondition, but also the growth maintenance, one of its key reference points. It is required to find institutional, economic and organizational forms of integration of industrial and postindustrial ways, creations of national innovative system (which today simply is not present) and its inclusions in contours of the expanded reproduction. The main result of a crisis wave should be – formation of new model of economy, with new resources and growth restrictions. To form a contour of the expanded reproduction which from outside demand will lean against population consumption, and from outside offers – on manufacture of consumer goods (mainly in a sheaf “agriculture – the food - processing industry”). Communication search between system characteristics of economy (rates of increase, inflation, export, import, reserves, the monetary offer, budgetary deficiency, proficiency and others) and restoration of logic of development of economy as difficult organized whole is for this purpose necessary (4).



- I - space of self-organizing and development of economic system;
- II - space of actualization of economic threats;
- III - Space of activity of the economic subject.

- A-A (crossing I and II) - space of variants of economic development taking into account actualization of threats;
- B-B (crossing I and III) - space of a reflex ion of threats by operating and regulating subject;

- C-C (crossing II and III) - space of operated influences on economy;

- A-B-C (crossing I, II and III) - space of possible constructive variants of development of economy. Thus, in Kazakhstan should be, 2 scenarios are developed:

1) The power-raw scenario (the scenario of catching up development innovative support of thermal power station, atomic power station development, following to modern innovative trends);

2) Innovatively active scenario (creation of the innovative environment and aspiration to technological leadership creation and realization of projects, nanotechnology and another).

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THE EU AND WORLD POWERS: EU – RUSSIA RELATIONS

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The EU and Russia cooperation is based on a number of challenges at international level and common neighborhood, common interests and shared values. The most important issues are climate change, drug and human trafficking, organized crime, counter - terrorism, non - proliferation, etc.

When in recent decade journalists and political observers characterized relations between Russia and the European Union as being in crisis, Moscow and Brussels objected with energy. As evidence they suggested to analyze the results of biannual summits. Each summit produced a document signifying or mentioning the striving to make a step forward. During the period leading up to the signing of the Partnership and Cooperation Agreement in 1994, and its ratification in 1997, both sides took the position that Russia would gradually continue its "Europeanization" according to the Brussels recipe, but without the eventual prospect

of EU membership. A lot has changed since then. The EU has doubled in size and run into management problems. Russia has ceased to depend on external financing and is no longer open to models of governance offered from beyond its borders, and integration is connoted as an exchange of interests among equals.

The relations of individual member states of the European Union and Russia are various, though a common foreign policy outline in the 1990s towards Russia was the first EU foreign policy of this kind agreed. Furthermore, four European Union-Russia Common Spaces were agreed as a framework for establishing better relations.

Now Russia is the EU's third biggest trade partner, with Russian supplies of oil and gas making up a large percentage of Russia's exports to Europe. According to the results of the St. Petersburg Summit in May 2003, the EU and Russia agreed to reinforce their ongoing co-operation by

creating, in the long term, 4 specific policy areas. These “common spaces”, cover economic issues and the environment; Freedom, Security and Justice; External Security; and Research and Education, including cultural aspects.

Over the past 15 years, the EU and Russia have developed a dense network of political institutions and diplomatic contacts. The Partnership and Cooperation Agreement created the legal foundation of EU-Russia relations. In the framework of the Four Common Spaces, Brussels and Moscow have conducted a large number of dialogues and working groups in the fields of economic, security and cultural relations since 2005. Economic interdependence has grown stronger as well, with the EU becoming Russia’s most important foreign trade partner, and Russia becoming the EU’s largest energy supplier.

Now I would like to have a closer look at these concepts.

Since the financial crisis of 1998 Russia has gone a long way on the road of growth and economic stability. After a decade of economic and social dislocation, Russia established a more stable and predictable political environment and created a respectable record of economic growth, macroeconomic stabilizations and policy reforms. Russia’s energy supplies can help to enhance Europe’s energy security. From its part, the European Union supports the integration of Russia into the world economic system and Russia’s accession to the World Trade Organization. In this context, the EU also fully supports the ongoing reform of the Russian economy, with its aims of increasing performance and efficiency as well as diversification and broadening its manufacturing base.

In November 2002 a “market economy status” was given Russian exporters being a symbol of the country’s successful steps towards transition to a fully-fledged market economy.

Now the European Union and the

Russian Federation also have a long trade relationship history with Russia being one of the EU’s important trading partners.

In May 2003 St. Petersburg hosted a Summit of the EU and Russia dedicated to the issues of reinforcement of cooperation by creating four “common spaces” of common interests as part of the Partnership and Cooperation Agreement. These are the following:

1) The Common Economic Space, covering economic issues and the environment;

2) The Common Space of Freedom, Security and Justice;

3) The Common Space of External Security, including crisis management and non-proliferation;

4) The Common Space of Research and Education, Including cultural aspects.

The Common Economic Space (CES) was created to answer the new demands for a more open and integrated market between European countries and Russia. The main objective of the CES is to enable increased and diversified trade and creating new investment opportunities by pursuing economic integration, elimination of trade barriers, regulatory convergence, market opening, trade facilitation and infrastructure development by closer co-operation, exchange of information and sharing of best practices. Working towards regulatory convergence will allow economic agents to operate subject to common rules in a number of fields throughout the enlarged EU and Russia, which represent a market of around 600 Million consumers.

Common Economic Space is significantly presented by cooperation in the field of energy. This relationship can be characterized as “mutual interdependence of supply, demand, investment and know-how” (EEAS Website 2010). There is no pint to wonder about it as Russia is the most significant producer and exporter of natural gas and, together with Saudi Ara-

bia, oil in the world. Russia disposes of more than 20% of the gas reserves and 5% of proven oil reserves. According to the data provided by the EEAS Website (2010) the “share of the energy and metals sector in the Russian economy is around 20% while it employs only 2% of the total labor force”. As natural gas is the largest export issue, it is delivered to Europe with the help of 12 pipelines: 3 of them direct (to Finland, Estonia and Latvia), four through Belarus (to Lithuania and Poland) and five through Ukraine (to Slovakia, Romania, Hungary and Poland).

The Russian energy supply for reasonable prices contributes to European economic growth, and the money paid for it is a push to Russian current economic growth. Thus there is an evident mutual interest in a close energy partnership between the EU and Russia.

EU exports to Russia vary, including almost all types of machinery and transport equipment (42.9%), manufactured goods, food and animals.

According to the European Commission Website (2010) EU services exports to Russia in 2009 made up €18.2 billion and EU services imports from Russia 2009 were €10.8 billion.

The Partnership and Cooperation Agreement (PCA, signed in 1994, entered into force on 1 December 1997) was an important part of the EU-Russia relationship for about 10 years regulating their political and economic cooperation serving as a foundation for the EU's bilateral trade with the Russian Federation. One of its main purposes is the development of trade and investment between the two states.

Another issue concerning the economic relations between EU and Russia is the question of Russia's membership in WTO. The point is actively supported by the EU representatives and viewed as a qualitatively new stage in economic relations of the parties.

In 2005 an EU-Russia Environmental Dialogue was opened to introduce the environmental issues to the EU-Russia Common Economic Space road-map. The first step in this direction in October 2006 was the Permanent Partnership Council (PPC) meeting on Environment held in Helsinki. The Environment Dialogue includes “Climate Change, Biodiversity and Nature Protection, Water and Marine Issues, Forestry Law Enforcement, Cleaner Production and Pollution Control, and Environmental Impact Assessment of Environmental Policies” (HES II - Russia Website 2010) with EU-Russia Subgroups functioning in each of these areas. A new work program for the Sub-Group on Convergence and “Harmonization of Environmental Standards cooperation project (HES II) are currently under development.

Cooperation on environment is also carried out in the context of the Northern Dimension regarding challenges and questions concerning Northwest Russia, the Baltic Sea and Arctic Sea region. The main objective is “to strengthen dialogue and cooperation between the EU, its member states and the northern countries including Russia, Norway and Iceland. The policy framework for the Northern Dimension from 2007, was adopted by the November 2006 EU-Russia Summit” (HES II - Russia Website 2010). The Northern Dimension Environmental Partnership (NDEP) is an example of efficient cooperation between the European Commission, some of EU Member States, Russia, Norway and IFIs (EBRD, EIB, NIB, World Bank).

One more result of the St. Petersburg Summit of May 2003 was creation of a “**Common Space on Freedom, Security and Justice**”. A road map agreed in 2005 sets out the objectives and areas for cooperation in the short and medium term. According to the EEAS Website (2010) there are 5 priority areas for enhancing EU-Russia cooperation:

- “Strengthening dialogue and cooperation on the international scene;
- The fight against terrorism;
- Non-proliferation of weapons of mass destruction and their means of delivery, strengthening export control regimes and disarmament;
- Cooperation in crisis management;
- Cooperation in the field of civil protection”.

Strategic partnership in this area has become a key issue in the scope of cooperation between Russia and EU contributing to the objective of jointly addressing common challenges of illegal activities of cross-border nature. This cooperation, “carried out on the basis of common values such as democracy, respect for human rights and fundamental freedoms, must reflect the necessary balance between Security, on the one hand, and Justice and Freedom, on the other” (Delrus Website 2010).

Human rights protection is another important point of the EU-Russia cooperation discussed during the regular six-monthly EU-Russia human rights consultations. Issues raised by EU include the human rights situation in the North Caucasus, “including torture and ill-treatment; freedom of expression and assembly, including freedom of the media; the situation of civil society in Russia, notably in light of the laws on NGOs and extremist activities; the functioning of the judiciary, including independence issues; the observation of human rights standards by law enforcement officials; racism and xenophobia; legislation relating to elections” (Lukyanov 2007). Most of the vital issues such as the development of democracy, protection of human rights and civil society in Russia were supported by the EU through the European Initiative for Democracy and Human Rights (EIDHR).

External Security issues represent the shared responsibility for an international order based on “effective multilater-

alism, their support for the central role of the UN, and for the effectiveness in particular of the OSCE and the Council of Europe” (Mardell 2007). This will help to answer the questions on security and crisis management so that it might be possible to face global and regional challenges, notably terrorism and the struggle against weapons of mass destruction (WMD). Special attention is paid to providing the stability in the regions bordering with Russian and EU (as an example may serve the “frozen conflicts” in Transnistria, Abkhazia, South Ossetia, Nagorno-Karabakh).

As stated by Professor Liuhto (2004) **research and development, education and cultural issues** are aimed to contribute to political, social and economic stability in Russia, in the region and worldwide. At the St. Petersburg Summit in May 2003 it was agreed to establish a Common Space of Research and Education, Including Cultural Aspects in mutually agreed priority fields. Objectives are to create favorable conditions, corresponding to the interests of both parties, aimed at:

- “structuring a knowledge-based society in the EU and Russia;
- promoting a high rate of competitiveness and economic growth by modernization of the national economies and implementation of advanced scientific achievements;
- strengthening and optimizing the links between research and innovation;
- maintaining small and medium size entrepreneurship in the field of research and innovation” (EEAS Website 2010).

In February 2007 a Joint Working Group was created in Moscow in order to develop a plan of action for Russia-EU cooperation in the sphere of cultural projects. On May 7, 2007 the Joint Working Group Statute was signed. In February and September 2007, cultural cooperation issues were discussed during the Joint Working Group sessions in Moscow and

Brussels. By that time Russia had prepared a document defining the main approaches to the Russia-EU cooperation in the sphere of culture regarded as the fourth “road map”. Its development is carried out within the framework of existing international forums, such as UNESCO, the Council of Europe, etc, to achieve common interests, goals and values.

In the area of education the main aims are to adopt comparable higher education degrees with a three-tier “bachelor-master-doctorate” education system; introduce an ECTS system, promote academic mobility and life-long learning; increase students adaptation to labor market demands and make the higher education systems in Russia and EU more attractive.

In the area of culture the objectives are to promote a structured approach to cultural cooperation between the enlarged EU and Russia, to enhance the European identity on the basis of common values and to develop cooperation between the cultural industries of the EU and Russia.

All these objectives are impossible to achieve without direct, open and uninterrupted dialogue.

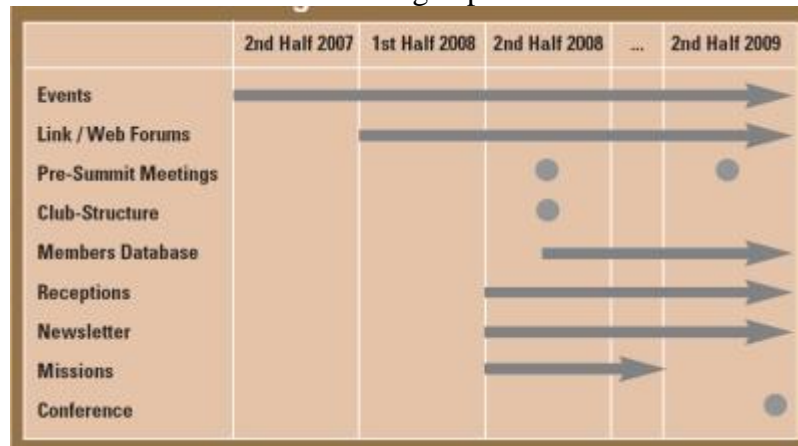
Economic and political relations between the European Union and the Russian Federation develop in quick rates, and instant changes and challenges are inevitable. Much still has a long way ahead for improvement. Much is caused by the mutual lack of understanding, though there is a strong eagerness to cooperate from both sides. The present situation is currently under the development process, and many state and NGO institutions seek to address the mutual trust by bringing together all interested parties from the areas of poli-

tics, business and civil society to the dialogues. The issues discussed are of crucial importance to the development of better EU-Russian partnership. A good example of such organization striving after overcoming the misunderstanding between the EU and Russia and creating a more constructive dialogue is the “Dialogue Platform: Brussels – Moscow” (DP: B-M). Dialogue Platform: Brussels – Moscow aims to address common values and challenges where a joint approach can be beneficial for both parties represented. DP: B-M offers the unique opportunity to discuss EU-Russian relations openly and at a senior expert level.

The main priorities of the organization management are independence and credibility based on free and unbiased approach being politically and financially independent from any government body. The objectives are to “nurture an atmosphere of mutual trust to enable a frank dialogue that helps advance EU-Russian relations and has practical relevance for all participants and produce insightful discussion reports targeted at decision-makers and aimed at revitalising ongoing debates on the major issues affecting the EU and Russia” (Dialogue platform Brussels-Moscow Website 2010).

The topics chosen for the discussion during the dialogue undergo wide consultation and have to concern the current political and economic situation. DP: B-M is supported by an Advisory Council of experts in the field of the EU-Russian relations. The timeline of its sessions is depicted on Picture 1 (Dialogue platform Brussels-Moscow Website 2010).

Picture 1. Timeline of the Dialogue platform Brussels-Moscow



Such organizations contribute to the mutual understanding between the interested parties. Their impact is enhanced by the fact that they are politically and economically independent from any governmental institutions and, consequently, do not undergo any ideological pressure. The themes discussed during the meetings are up-to-date, enable the understanding of people without political background and, subsequently, promote transparency.

Another good example of cooperation between the European Community and Russian Federation in the sphere of political relations is the Delegation of the EU to Russia. Its role is to be a proper reflection of all political events concerning the partnership between the two sides, changes and movements in the scope of Russia's political stage that are of direct importance to the development process of the strategic partnership between the EU and the Russian Federation. Objectives are not only to support it, but also to create favorable conditions in order to enable the process. Therefore the Delegation monitors and analyzes political life all over Russia, the level of democracy and human rights protection there. One more analysis and monitoring issue are "Russian policies and their implementation in the area of justice, liberty and security; as well as the range of Russian foreign (and defense) policy" (European Commission Website

2010).

The Delegation used to represent only the European Commission, but now it is a kind of an embassy of the whole European Union, and as such "plays a key role in fostering and furthering the EU-Russia strategic partnership at political level" (European Commission Website 2010).

Russia is a beautiful country rich in history and culture that cannot be overlooked. If we look at the history of Russia's development, it is obvious that by origin and culture it is a European country but similar to the USA or Canada at the same time. So it is something different, which has its own unique features. Thus it would be logical for Russia to be aspiring after the closer cooperation with the European states. Russia has always been and will always be a part of the European community. The only problem for Russia is the fact that it has alienated itself from the rest of the European community since the Communist Revolution. However, behind closed doors of the Iron Curtain down deep in the hearts and souls of all Russians there is a strong desire to be fully accepted by the European Community as a permanent member.

The Soviet Union was a trade of one extreme dictatorship to another for most European states. Even under a critical analysis one must distinguish between the Soviet State and Russian State since they

are very different. Right now Russia is aiming for a legitimate stance in world politics, and its striving after mutually advantageous cooperation with the European Union member countries is one of the most significant steps towards the designed goal.

The eighteenth Russia-EU summit that took place on November 24, 2006 in Helsinki, and, as mentioned by Avdeev (2009), together with the subsequent summits in Samara (Russian Federation), Maffe (Portugal), Khanty-Mansiisk (Russian Federation), Nice (France) and Khabarovsk (Russian Federation) proved that Russia-EU interaction is a truly strategic one, and their mutual interest lies in the development and deepening of that cooperation.

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