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STAGES AND FEATURES OF THE IMPLEMENTATION OF PUBLIC-PRIVATE PARTNERSHIP IN KAZAKHSTAN

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Abstract. *The relevance of scientific work in the field of research of stages and features of public-private partnership in the Republic of Kazakhstan is conditioned upon the fact that the implementation of this mechanism serves as a factor in increasing the current resource base, mobilising unused reserves for the development of the economic segment. Proceeding from this, the key tasks and goals in research are the study of the institute of public-private partnership, identification of its main stages of development, consideration of key features, including analysis of possible problems and prospects for overcoming them. To achieve the goals set in the scientific work, such methodological approaches as the theoretical methodological approach, the method of legal hermeneutics, the dogmatic methodological approach, the formal legal method, the synthesis method and others were used. During the scientific work, it was identified that the modern model of the economy*

of Kazakhstan was formed as a result of numerous reforms and transformations, the interaction of the public and private sector provides an opportunity for the development of economic relations with integration into the international community; statistical data on the development of public-private partnership in Kazakhstan through the study of concession projects in Kazakhstan were analysed. It was identified that despite the fact that the functioning of the studied segment has positive aspects of the implementation of this type of activity, nevertheless its actions are characterised by a non-systemic nature

Keywords: *modernisation, concession agreements, public-private partnership agreement, social infrastructure, international experience*

Introduction

Recently, in the context of the globalisation of the economy, a fairly new direction has begun to form, which is indicated by the interaction of the state and business called public-private partnership. The development of this direction, which should be understood as the consolidation of the efforts of the state and business to achieve significant goals for society, is largely related to the modern concept of the “new state direction”, and is conditioned upon the fact that its goal is to reduce government spending on the provision of public services. In this emerging “state-business” direction, the role of the private sector, which serves as a generator of social development, is growing quite strongly (Bao et al. 2018; Miethlich and Oldenburg 2019, p. 6255; Hrynko et al. 2021, p. 95; Goussous and Al-Jaafreh 2020, p. 328; Kostruba and Kulynych 2020, p. 3100). Within the framework of the state-business partnership, private business brings modern management systems designed in world practice, including those that are extremely important for infrastructure projects, namely the quality management system, project management system, personnel management and risk management (Buribayev et al. 2015, p. 194; Suchanek et al. 2019, p. 150; Trusova et al. 2020, p. 147; Wang et al. 2021). That is, in today’s conditions, the innovative tandem “state-business” becomes a powerful tool of the modern market, which links the interests of the state, society and business, and also allows implementing socially significant projects. Thanks to this, it is possible to explain the processes of consolidating the capabilities of state structures and business society in the global economy within the framework of the concept of public-private partnership. In general, for the first time the term “public-private partnership” appeared in the United Kingdom (UK), where this segment developed and was formed during the creation of strategically important infrastructure for the national economy in the field of energy, roads and railways, heavy industry, telecommunications and socially significant facilities (Hodge and Greve 2018, p. 5; Kostruba 2021, p. 121; Shalbolova et al. 2021, p. 589; Tkachuk et al. 2021).

This concept of “public-private partnership” originated in the 60s of the twentieth century; initially it meant joint financing of various kinds of educational programmes by government agencies and the private sector (Novak and Gersonskaya 2022, p. 63). The active introduction of public-private partnership in the economic sector occurred at the

end of the twentieth century (Mukhamadiyeva et al. 2017, p. 2500; Wang and Ma 2021, p. 246). In general, the innovative nature of this concept lies in the possibility of sharing the advantages of various forms of ownership within the framework of public-private partnership with the provision of guarantees for the preservation of the powers of the partnership participants.

Analysing public-private partnership in the Republic of Kazakhstan, it is worth noting here that this direction is multifaceted, insufficiently studied and very complex; nevertheless, in today's conditions, the alliance of state structures and the private sector is distinguished by the novelty of its functioning. The increased interest in this segment is conditioned upon the fact that in many countries this cooperation is distinguished by its effectiveness and efficiency, as it contributes to the resolution of social and economic problems through the tandem of the public sector and business (Borshevsky 2021; Miethlich and Šlahor 2018, p. 1452; Omarova et al. 2017, p. 157; Shalbolova and Kenzhgaliyeva 2018; Suchanek et al. 2021).

Thus, based on the above, the question of the study of public-private partnership in Kazakhstan acquires particular importance, to highlight its inherent features and characterise the stages of its development. It is equally important to investigate the problems that stand in the way of the proper functioning of the studied sector. To eliminate the obstacles, an important stage is to consider the experience of advanced countries within the framework of the concept of public-private partnership, highlight their advantages and disadvantages, compare them with the experience of the functioning of this mechanism in the Republic of Kazakhstan.

Materials and Methods

The research, which is conducted with the aim of studying public-private partnership in Kazakhstan, was carried out through the use of methodological approaches that cover the theoretical and practical aspects of the work being carried out. Thus, due to the use of a theoretical methodological approach, an opportunity is provided for a detailed study of the institute of public-private partnership, highlighting its characteristic features of functioning and the principles on which the mechanism for implementing its activities is based. The functional methodological approach allows analysing the stages of development of the public-private partnership segment, characterising each of these stages, highlighting its advantages and disadvantages. The importance of using a formal legal methodological approach is conditioned upon the fact that it allows analysing the legislative norms that regulate agreements on this type of partnership and this activity in general, and analysing these norms for the presence of collisions. The method of legal hermeneutics provides an opportunity to analyse in more detail the features of this segment in the Republic of Kazakhstan, and to highlight its possible problems in the implementation of this type of activity.

The use of a dogmatic methodological approach consists in the analysis of experience of other countries in the functioning of public-private partnership. Comparative legal analysis, in turn, will allow comparing the functioning of the mechanism under study

in Kazakhstan and other countries, highlighting the advantages and disadvantages of each of the models of functioning of this mechanism, which, consequently, provides recommendations for solving problems in Kazakhstan. The deduction method allows investigating the institution of the functioning of public-private partnership based on its general mechanism to identify its characteristic elements and features; the induction method characterises the general mechanism based on the inherent features and elements of the object of study. The method of logical analysis will help in conducting a detailed analysis and research of public-private partnership agreements, to highlight its features and problems in the implementation of these agreements. The synthesis method brings together all the theoretical and practical information obtained to fulfill all the tasks and goals set, and to obtain recommendations for their implementation in the mechanism of public-private partnership in Kazakhstan.

The first stage of this scientific work is characterised by the disclosure of the theoretical aspect, which is based on the research of the institute of public-private partnership, to highlight its characteristic features and principles on which this segment is based. The second stage is of a practical nature, as it highlights the features of public-private partnership in Kazakhstan, examines its characteristic stages, highlights the advantages and disadvantages in its functioning, analyses the legislative norms that regulate this mechanism of activity, and also examines the statistical data of the functioning of the mechanism, considering their features in the Republic of Kazakhstan. The third stage provides an opportunity to study the experience of other countries of public-private partnership, to conduct a comparative legal analysis with the experience of Kazakhstan in the implementation of this activity, to highlight its advantages and disadvantages; also, this stage provides an opportunity to consider recommendations that will help remove problems that interfere with the proper functioning of the segment under study.

Results and Discussion

In today's conditions, two key areas are clearly identified: on the one hand, there is a reduction in budget funding, on the other – the number of public-private partnership projects, which are financed by private capital, is steadily growing. It is necessary to analyse in more detail what is the mechanism of public-private partnership. In general, public-private partnership is a form of cooperation between public authorities and non-state government entities. Its development is determined by several key factors that influence the expansion of forms of interaction between the state and the private sector and the scale.

First of all, it is worth noting that public-private partnership is defined as one of the mechanisms of a mixed economy that allows developing relations between business and the state. Secondly, it provides an opportunity to involve the resources of the private sector in the reproduction processes in those industries and areas that are owned by local governments and state authorities, and also allows the use of private entrepreneurial initiative to increase the efficiency of budget spending (Nakipova and Shalabaeva 2020, p. 22; Vinichenko et al. 2020, p. 1470). It is further noted that the symbiosis of efforts

and resources of business with the state within the framework of specific projects allows forming competitive advantages. The private sector, in comparison with public authorities, has greater mobility, the ability to innovate, speed in decision-making, and the desire to search for technological and technical improvements to provide a competitive factor (Blahuta et al. 2020, p. 86; Hodge and Greve 2018, p. 7; Miethlich 2022, p. 477; Proskurnina et al. 2021). State structures, in turn, have the opportunity to ensure more successful implementation of projects, which is carried out through organisational measures, the creation of a stable regulatory framework, ensuring interaction with civil society, the use of financial and economic levers such as subsidies, taxation, guarantees and other types of support (Strasser et al. 2021). But it is worth mentioning that in different countries the dynamics of this process will depend on public policy, the desire of the state to implement cooperation with the private sector in search of social and economic consensus, including on the position of civil society.

The subject of public-private partnership is municipal and state property, including the service sector, which is provided by the state, municipal authorities and public sector organisations (Hawkins and Cambridge 2019, p. 6). Considering the principles on which this mechanism is based and implements its activities, it should be noted here the stability of the public-private partnership contract and its possibilities for change and adaptation; equality of interests of the parties and freedom of choice of actions; non-discriminatory attitude towards companies from other countries; non-interference of the state in the sphere of responsibility of private partnership; responsibility for the fulfillment of contract terms; transparency and feedback; incentives and guarantees; competitiveness; the principle of retaliation (Bao et al. 2018; Seok et al. 2020, p. 168). Also, key characteristics and success factors play an equally important role in the study of the partnership mechanism (Mihov 2020). When using this mechanism, there is a possibility of increasing the productivity of the alliance of the public sector and the private sector, the speed of the production infrastructure increases, which are necessary factors for economic diversification.

Analysing public-private partnership in Kazakhstan, it can be of two types, namely, contractual and institutional. Characterising these forms, it is noted that the specific feature of the institutional is that its activity lies in the transfer to the private sector of the shares of participation of legal entities; the specific feature of the contract form consists in a variety of contracts: contracts for management and maintenance, operation and maintenance, operation and management, concession, lease contract, provision of services, privatisation, design, construction and financing (Nakipova and Shalabaeva 2020, p. 22). In general, Kazakhstan has a regulatory framework that regulates the activities of the agreement based on the concession in the implementation of investment infrastructure projects in the energy and transport complex of the state. The application of the institutional form is implemented through socio-entrepreneurial corporations of a regional nature; in accordance with world experience, it is carried out through the stages of preparation, improvement, character (Borschevsky 2021; Trusova et al. 2021, p. 451). In turn, the application of the contract form is carried out through the coordination of the Kazakhstan Public-Private Partnership Center (2022), which is authorised

to provide training, consulting, research, evaluation and expertise on the implementation of projects that are based on the mechanism of public-private partnership (Nakipova and Shalabaeva 2020, p. 23).

Public-private partnership in Kazakhstan is characterised by 3 stages: preparation, implementation and improvement. The preparation stage is characterised by the fact that specialised institutions develop state policy in the field of public-private partnership, analyse legislative norms, form a legislative framework, create a specialised state organisation on public-private partnership, and also analyse the prerequisites for public-private partnership. The next stage, which is the implementation stage, is characterised by a number of measures, in particular, such as expanding the scope of public-private partnership, improving models for the implementation of public-private projects. The last stage is the stage of improvement, whose specific feature consists in the growth of activity in the field of public-private partnership and the transition to the implementation of more complex investment projects (Kazakhstan Public-Private... 2022).

Among the main forms that exist and operate within the framework of public-private partnership in Kazakhstan, there are contracts for management and maintenance and for the provision of services; the use of other forms of public-private partnership in today's conditions is very complex, so it is necessary to improve the current regulatory framework. Therefore, the most common form of public-private partnership in Kazakhstan at the moment is a concession, whose feature is the principle of engineering (Nakipova and Shalabaeva 2020, p. 23; Koshkinbaeva et al. 2019, p. 123). The reason for this is that concessions are characterised by a rather greater balance in the distribution of risks of participants in concession agreements than in other forms of public-private partnership projects. The development of concession agreements in the politics of Kazakhstan was the adoption of the Law of the Republic of Kazakhstan No. 1021-XII "On concessions" (1991). Its content defined the concession as a form of public-private partnership, and the key objectives are the settlement of legal, economic and organisational conditions for the transfer of objects to the concession to investors from other countries.

The next stage in the development of concessions was the fact that there was a lack of investment in the construction of railways and highways, significant dilapidation and destruction of the road infrastructure of Kazakhstan, which had a strong impact on the economy of Kazakhstan in the 2000s; this was the reason for signing the first Concession agreement for the construction and operation of a new railway line "Station Shar – Ust-Kamenogorsk" (2005). Therefore, the next step was the adoption of the Law of the Republic of Kazakhstan No. 167-III "On concessions" (2006). This legislative act provided an opportunity to transfer the rights to create state-owned investment objects for both investors from other countries and legal entities that are residents of Kazakhstan; that is, it allowed determining the status of a concessionaire and was aimed at regulating public relations. In today's conditions, the Law of the Republic of Kazakhstan No. 167-III "On concessions" (2006) is being further improved and improved.

The formed regulatory framework for the development of public-private partnership is the basic measure for the effective functioning of mutually beneficial partnership between the state and business for the implementation of joint investment projects (Nakipova and

Shalabaeva 2020, p. 23). According to this, in 2008, the Government of the Republic of Kazakhstan issued a regulatory legal act, which spelled out the establishment of the Kazakhstan Public-Private Partnership Center; further, such centers were opened in East Kazakhstan and Karaganda regions (Decree of the... 2008). These Centers of public-private partnership have become key elements for the passage of concession projects. This can be characterised by the fact that the Centers provide project expertise, which takes at least 140 working days, which is about 7 months; it takes about 2 years to prepare a concession project (Decree of the... 2015).

The list of current problematic aspects in the housing and communal services sector may entail major social problems; therefore, the right way to resolve them will be the introduction of a public-private partnership mechanism. The current state of the healthcare sector is characterised by the introduction of partnership mechanisms between government agencies and the private sector, especially concession projects (Kazakhstan Public-Private... 2022). To consider the prevalence of concession projects, it is necessary to refer to statistical data on the distribution of current projects by region (Figure 1).

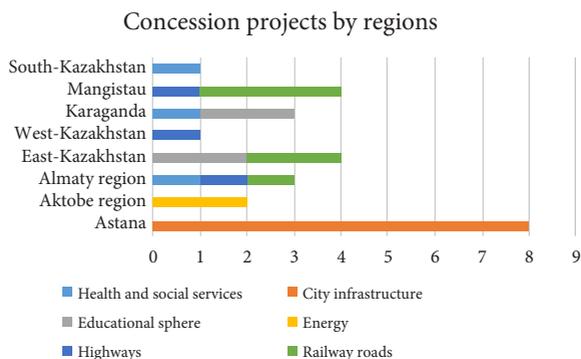


Figure 1. Implementation of concession projects by regions of Kazakhstan

Source: Kazakhstan Public-Private Partnership Center (2022)

The provided statistical data allow highlighting the characteristic features of the implementation of concession projects in the Republic of Kazakhstan. First of all, the total number of projects being implemented in relation to global trends is very significant and have a weak trend in development, which allows concluding that the need for the development of public-private partnership at this stage is declarative and needs changes in legal regulation. Secondly, statistical data indicate that in many regions of the country there is no implementation of concession projects in the fields of tourism, housing and communal services and its infrastructure, and therefore there is an increasing need to work out the implementation of projects in these sectors to regional akimats and relevant ministries, since the non-use of partnership as a factor that increases investment activity, is invalid (Shalbolova et al. 2020). It is also worth mentioning that such a weak

implementation of projects indicates a low innovative potential of the projects being implemented, since the main part is focused on infrastructure, where there is no use of Kazakh scientific potential.

Based on the above, to provide recommendations for improving the efficiency of the studied sector, it is worth considering international experience. The experience of developed countries in the functioning of this segment allows highlighting some of its characteristic features. These include the fact that joint projects are developed in accordance with the terms of reference, which prescribes all the key requirements for the object being created. For example, in countries such as France, Italy, Iceland, Australia, Greece and Spain, the studied segment showed a significant increase in its implementation in public policy. In the Anglo-Saxon group of countries, which includes the United Kingdom, Ireland and the United States, most significant social projects are implemented by the private sector with nominal business participation. A noteworthy fact is that the UK uses its partnership mechanism to solve socially significant problems in the fields of education, medicine, culture and science (Hawkins and Cambridge 2019, p. 8; Jeong et al. 2022, p. 221). Highlighting the experience of France, it is noted here that the partnership is formed based on the conclusion of a concession agreement, and the mechanism of this partnership is implemented for the implementation of large infrastructure projects, but has not received special distribution for solving socially significant problems (Hodge and Greve 2017, p. 58). Germany's experience is also important, as it successfully implements its own infrastructure projects through the use of information and communication technologies. This area is given a primary role, as it serves as a locomotive for bringing the economic sector to an innovative level (Mihov 2020). With regard to China's experience, it is characterised by the widespread use of such forms of partnership as concessions and contracts. This has led to the fact that in modern conditions it has a huge potential for the development of its own infrastructure (Khan et al. 2020).

That is, the role of the state and the private sector is distributed according to a certain scheme: the state undertakes to provide all possible conditions for ensuring the effectiveness of the partnership by providing an appropriate regulatory framework in the economic segment of stimulating this partnership, and in turn the private sector provides the introduction of these technologies into the economic sector, invests in information and communication technologies and research segment.

Conclusions

1. It should be concluded that at this stage of the functioning of the mechanism under study, it is weak relative to global trends and needs to be improved. In this regard, international experience was considered, which will allow identifying key features for their implementation in public policy. Analysing first of all the stages of implementation of the segment under study, the stage of preparation, implementation and improvement is noted here. As for the specific features, this type of partnership has the most common form in the form of concessions in

the policy of Kazakhstan; some concession projects in this area were analysed. It is worth mentioning here that at the moment they need to be worked out by regional akims and relevant ministries, improving the regulatory framework and other key aspects.

2. It is noted that for the successful functioning of the industry under study, the necessary factors are the joint development of projects in accordance with the terms of reference with prescribing all the key requirements for the object being created, long implementation and financing periods conditioned upon the provision of investments from the state budget and private sector investments, the determination of the project executor on a competitive basis, the assignment to the state of the obligation to allocate goals, the cost and timing of the completion of the project, monitoring the entire progress of the project, assigning responsibilities to the private sector for the implementation of all stages of the project life cycle, namely the development, provision of financing, implementation and management of the project, the operation of the facility and its construction, and, last but not least, risk sharing between the participants of the partnership with the inclusion of this in the partnership agreement.
3. The recommendations provided will help bring the public-private partnership of Kazakhstan to a new level, increase its effectiveness and remove its declarative nature. This will serve as a mechanism for solving many social problems, in particular, in the fields of medicine, education, culture, science, housing and communal services.

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