

PRINCIPLES OF STATE CONTROL SYSTEM OVER PROTECTION AND USE OF THE LAND IN KAZAKHSTAN

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Abstract

One of the areas of strategic development plans of the Republic of Kazakhstan and the implementation of the provisions of the Land Code is to ensure the sustainable use and conservation of land resources through the formation of highly productive, ecologically oriented and adapted land use, through improved economic mechanisms of land management and state control over observance of the land legislation.

The aim of this article is to identify the most important problems in the field of land management, namely state control over land use and protection, made by the territorial Land inspection agency of the Republic of Kazakhstan on land management.

The relevance of the choice of the theme of research connected with the problem of developing a system to improve the mechanism of state control, restoration of violated rights of citizens and legal entities, compliance with land use rights, the correctness of the land cadaster and land development, and implementation of measures for the rational use and protection of land, as well as the organization of conducting land register in the Republic of Kazakhstan.

The paper defines the goals and objectives of state control, considers the organization and procedure of the state control, statistical data and analyzes revealed violations, gives suggestions for changes and makes recommendations to eliminate violations of land legislation.

Keywords: state control, rational use of land, land users, land registry.

Introduction

Land is the basis of all the processes of society taking place in the political, economic, social, industrial, legal, environmental and other fields. In this regard, it has the right and is one of the most important conditions for the normal functioning and development of economy and society.

The Republic of Kazakhstan has the largest area of the land. In terms of area, Kazakhstan is among the top ten countries in the world, and in terms of land provision per capita ranks third in the world after Australia and Canada. Provision of land per capita is 17.03 hectares per person, including the provision of arable land – 1.51 hectares per person. For comparison, the corresponding figures in other countries are respectively: Russia – 11.6 and 0.89, the United States of America – 3.8 and 0.75, China – 0.8 and 0.08, Japan – 0.31 and 0.03 hectares per person.

Kazakhstan with its huge land and resource potential should be a conscious approach to its use, develop a strategy for the rational use and protection of land with a view of the world of conceptual positions and transformation of land relations in connection with the country's transition to a market economy (Казakhstan...2011).

The distribution of the land fund of the Republic of Kazakhstan for the intended purpose for 2013 is given in the table.

Table 1

Distribution of the land fund of the Republic of Kazakhstan for the intended purpose for the year 2010

Land category	Area (million Ha)	In%
Agricultural land	93.4	34.3
Land for settlements	19.9	12.6
Land for industry, transport, communication, defense and other nonagricultural purposes	2.7	1.0
Protected Areas	23.1	8.5
Forest land	5.7	2.1
Land for water resources	4.1	1.5
Reserve lands	109.1	40.0
The territory of the Republic	272.5	100

(Казakhstan...2011)

At the end of 2013 the area for agricultural purposes in Kazakhstan is 93.4 million hectares (34.3%). Since 1990, the total reduction of this category of land was 90.7 million hectares, which is associated with the transfer of land to the local executive bodies and the transfer of unused land in the land reserve, as well as in connection with the rejection of the use of the pasture, especially in areas deserts and semi-deserts. As part of the agricultural lands of the Republic of 81.7% is agricultural land, which are dominated by pastures – 84.9%, 10.2% is arable land and hayfields – 2.2%.

The object of land relations is all the land fund of the Republic of Kazakhstan, individual plots of land, regardless of the fact that they are located and the legal basis of the consolidation of the individual subjects, and the right to land and land shares (Абдраимов, 1999). In order to regulate the management of land resources to carry out state control of land. According to the Law of the Republic of Kazakhstan "On state control and supervision in the Republic of Kazakhstan" dated January 6, 2011 State control is exercised over the use and protection of land (Джангарашева, 2011).

Objective of the paper – to analyze the system of state control over land use and protection, display the results and significance of the irrational use of the land.

Methodology of research and materials

For the implementation of the above-objective scientific literature and legal documents, analysis and synthesis of statistical indicators and analysis of comparative analysis were used. The study was carried out using the data obtained from the state land cadaster, state control of the territorial land inspection and regulations.

Discussions and results

Goals and objectives of state control. State control – is the activity of state authority to verify and monitor the audited entities for their compliance with the requirements established by the legislation of the Republic of Kazakhstan in the implementation and the results of control measures may be applied without limiting the right of prompt response.

The objectives of state control over land use and protection are:

- prevention of degradation and disturbance of land and other adverse consequences of economic activity by ensuring the use of environmentally sound technologies and production of forest reclamation, land reclamation and other events;
- ensuring improvement and restoration of degraded land or disturbance;
- rational use of land;
- compliance with the land legislation by all subjects of land relations;
- to prosecute violators of the land legislation;
- correct implementation of survey, land surveying and work-finding, accuracy and timeliness of the land register, correct maintenance and storage of land cadastral documents, compliance with the inventory data of the actual land use.

Objectives of state control over land use and protection are to ensure compliance with the land legislation of the Republic of Kazakhstan by state bodies, physical, and legal persons to identify and eliminate violations of the law of the Republic of Kazakhstan, the restoration of violated rights of citizens and legal entities, compliance with land use rights, the correctness of land cadaster and land management, and implementation of measures for the rational use and protection of land (О государственном..., 2013).

According to the decision of the Government of supervisory control functions are entrusted to the Agency for Land Management. Here are located land and cadastral services, service monitoring, land management services and service of state control.

The subjects of state control over land use and protection are:

- officials;
- legal entities and individuals.

According to the Government, the supervisory agency for SLM has no right to transfer his powers to others. However and other departments, lead overseeing the implementation of the legislation as a whole and, in particular, of the land - is the prosecutor's office, Agency for Combating Economic and Corruption Crimes.

Legal entities and individuals indicated as possible applicants about their rights infringed or showing certain facts that forms the basis for unscheduled inspections by government inspectors (О внесении..., 2011).

Organization and procedure of state control over land use and protection. State control is managed by the central competent authority and its territorial bodies and other authorized bodies within their competence.

State control over land use and protection takes the form of checks. State control is also carried out during the inventory, survey land development schemes and projects related to land use, State Cadaster and land monitoring.

Procedure for State control is based on published public authority instrument of appointment checks and inspections of registration cards of private entrepreneurs, who before the test are recorded in the public register responsible within its competence statistical activities in the field of legal statistics and special accounts.

The duration of the scheduled inspection should be done in ten calendar days. The beginning of the inspection shall be the moment of delivery of inspected object entrepreneurship instrument of appointment checks.

State control is carried out by checking with the participation of land owners, land users, and in case of failure – without them, as a relevant note in the preparation of survey instruments. Revealed violations of land legislation is documented with the accompanying drawings field survey, which shall be signed by experts who carried out this work, and transferred to the Authority, the responsibility of which is to examine the question.

For the implementation of state control over land use and protection authorized bodies of regions, cities of republican status, capital, districts, cities of regional importance annually submit to the relevant territorial bodies of Land Management areas, cities of republican status, capital, the list of land owners and land users, which in particular year provided land and land cadastral map showing the location of such land, as well as monthly - information about changes that have occurred in the list of land owners and land users.

State control over land use and protection includes:

- 1) main state inspector on land use and protection of the Republic of Kazakhstan (the head of the central authority);
- 2) chief state inspectors on use and protection of lands of the respective administrative-territorial units (Chairs territorial bodies on land management and their deputies);
- 3) state inspectors on use and protection of land (other officials of the central authorized body and its territorial bodies) (О государственном..., 2013).

Agency for Land Management of Republic of Kazakhstan is the central executive body of the Republic of Kazakhstan, not part of the Government to exercise leadership in the area of land management, surveying and mapping activities, which has special executive and approval functions, one of which is the implementation of state control over the use of and protection of lands.

Functions of the authority exercising state control over land use and protection. Territorial land inspection (TLI) Agency of the Republic of Kazakhstan on land management is a public institution, has the status of a legal person established in the legal form of an institution to carry out the functions of state control over land use and protection.

Territorial land inspection organizes and carries out state control over:

- 1) compliance with government agencies, enterprises, institutions, organizations and citizens of the land legislation of the Republic of Kazakhstan, the established regime of land use in accordance with their intended purpose;
- 2) preventing unauthorized occupation of land;
- 3) observance of the rights of land owners and land users;
- 4) timeliness and correctness of land owners and land users of the complex organizational-economic, agronomic, agroforestry and hydraulic erosion control measures to restore and preserve soil fertility;
- 5) timely provision to state bodies land owners and land users information on the availability, condition and use of land;
- 6) The design, location and construction of residential and industrial facilities, affecting the condition of the land;
- 7) timely and qualitative performance measures for land improvement, prevention and mitigation of soil erosion, salinization, waterlogging, flooding, desertification, desiccation, compaction, littering, pollution and other processes leading to land degradation;

- 8) compliance with the deadlines for consideration of applications (petitions) of citizens of the land allotted to them;
- 9) maintenance of boundary marks;
- 10) timely return of land granted to local agencies for temporary land use;
- 11) land reclamation;
- 12) removal, conservation and use of topsoil in the works related to the violation of land;
- 13) the implementation of land management projects and other projects on land use and protection;
- 14) the legality of decisions of local executive bodies in the field of land legislation of the Republic of Kazakhstan.

Evaluation criteria. In order to improve the efficiency of state control in accordance with the amendments and additions to the Law of the Republic of Kazakhstan dated January 31, 2006 "On private entrepreneurship" state control over land use and protection is carried out according to the criteria for assessing the degree of risk. State control over land use and protection should be carried out according to the criteria for assessing the degree of risk. The main risks in the sphere of land relations are the probability of harm to land as a result of irrational use of land as a result of which may reduce soil fertility depletion, desertification, pollution, wind and water erosion, and in the regulation of land relations - a violation of the rights of owners and land users ground. There are criteria for assessing the degree of risk in the field of land relations in the field of geodesy and cartography. On risk criteria drawn up a checklist for entities engaged in activities related to the impact on land resources, and checklist for entities operating in the field of regulation of land relations.

State control over land use and protection takes the form of checks. At the same routine check carried out in accordance with the system of risk assessment. This system involves inspections at regular intervals: at high risk – once a year; at average risk – once in three years; with little risk – once every five years.

Unscheduled inspections, subject to the facts and circumstances giving rise to the conduct of the audit. These checks are usually not planned in advance and are subject to availability provided by the law such grounds (such as complaints from individuals and legal entities (О частном..., 2006).

The results of monitoring. Dynamics of violations of land legislation of the Republic of Kazakhstan for the period from 2006 to 2009 shows an annual increase in the number of violations at a constant amount of redressing the violation (Table 2).

Analysis of inspections revealed that the main types of violations of land legislation of the Republic of Kazakhstan are:

- violation of the right of state ownership of land (unlawful removal or exchange of public land, late return temporarily occupied public lands) - 60.8%;
- use of land not for its intended purpose - 18.3%;
- violation of the established order of approval of land use documentation - 7.1%.
- irrational use or non-use of agricultural land, deterioration of land, destruction of special characters - 13.8%.

Table 2

Dynamics of violations state control over land use and protection of the Agency for SLM

Title	2008	2009	2010	2011
Violations	2424	3438	2421	7999
To eliminate violations	1305	1307	1012	6509

Source: <http://minplan.gov.kz/economyabout/433/>

(Стратегический ..., 2011)

Along with the analysis of violations of land legislation of the Republic of Kazakhstan observed annual increase in the number of subjects of land relations. According to the Consolidated analytical report on the status and use of land in the Republic of Kazakhstan in 2008, the number of land owners and land users was 2.7 million, in 2009–3.2 million, in 2010–3.3 million and in 2011–3.4 million. At present, the total staff of the Agency is 210 units, of which interregional land inspection - 174, including 116 inspectors and the load on one of the state inspector on the number of owners and users – more than 31 million units, according to the area – 2.3 million hectares (Стратегический ..., 2011).

Figures on all inspections in 2013 in the Republic of Kazakhstan are shown in Table 3.

Table 3

Departmental report on inspections of land relations of land use and protection

Types of inspections	of all	State Institutions	State-owned enterprises	Individuals, non-profit organizations
Conducted inspections of all, including:	10886	535	70	10281
1. Planned checks, including:	319	238	4	77
complex	237	156	4	77
thematic	82	82		
Check which revealed violations	167	127	3	37
The results of checks drawn people to justice:	127	77	1	49
administrative	101	64		37
Checks which are not revealed violations	152	111	1	40
2. Unscheduled checks, including:	10567	297	66	10204
complex	235	29		206
thematic	10332	268	66	9998
Check which revealed violations	5646	78	28	5540
The results of checks drawn people to justice:	2003	50	23	1930
disciplinary	88	4		84
administrative	1972	48	35	1889
Checks which are not revealed violations	4861	203	36	4622

Source: <http://www.ouzr.kz>

(О состоянии ..., 2013)

As the table shows, the number scheduled inspections exceeds the number of unscheduled inspections 33 times. Scheduled inspections were largely carried out in public institutions, while the number of unscheduled inspections more from individuals and non-profit organizations. There were found more than half of the violations (5577) of the total number of inspections (10281). Also, do not offset the damage to the state and individuals and legal entities in the course of violations of land legislation. When checking the owners and users and identify their violations to criminal liability are not involved (Зарегистрированные ..., 2013).

During 2013 by territorial land inspection of the Committee on Management of Land Resources were made more than 16 thousand examinations for compliance of land relations with land legislation, were found about 6 thousand violations of rules of Code of Administrative Responsibility on area about 3 million hectares (Об административных..., 2001).

According to their results in 6 thousand cases against violators were initiated administrative proceedings, including in 4 thousand cases of which were adjusted penalty (total amount – 547 million KZT), in 675 cases – notifications and in 161 case administrative responsibility has not been applied.

To administrative responsibility were subjected:

- 1530 citizens (amount of penalty – 97 million KZT);
- 490 civil servants (amount of penalty – 40 million KZT);
- 786 individual entrepreneurs (amount of penalty – 56 million KZT);
- 74 non-profit organizations (amount of penalty – 6 million KZT);
- 1082 subjects of small and medium size business (amount of penalty – 132 million KZT);
- 348 subjects of large size business (amount of penalty – 217 million KZT).

At the same time, were paid 3085 penalties in the amount of 380 million KZT, including forcibly – 294 penalties in the amount of 33 million KZT. Cancelled and modified by higher judicial authorities were 149 resolutions on administrative responsibility in the amount of 29 million KZT and 922 administrative materials were submitted for enforcement (Правила...2003).

There were issued more than 4.5 prescriptions to eliminate violations. Up to now 4190 violations on the area of 1.7 million hectares are removed, furthermore 439 cases are submitted to the court.

Indicators types of violations for 2012 and 2013 are reflected in Table 4.

Table 4

The number of violations of land legislation

No	Types of violations	In 2012	In 2013	Difference
1	Violation of the right of state ownership of land	1563	2354	+791
2	Violation of the rules of land use approval documentation	60	128	+68
3	Destruction of special characters	192	330	+138
4	Spoilage of the land	73	127	+54
5	Irrational use or non-use of agricultural land	1215	1210	-5
6	Failure to comply with environmental mode of land use	28	36	+8
7	Use of land not for its intended purpose	615	1256	+641
8	Neglect to bring the temporary occupied land in a condition suitable for further use	7	31	+24
9	Carrying out survey work without permission to use the land	7	6	-1
10	Violation of the terms of consideration of applications for land	32	39	+7
11	Concealment of information on the availability of land for housing	9	16	+7
12	Misrepresentation of state registration, accounting and valuation of land	29	11	-18

Based on the data presented in Table 4, it can be concluded that in general, on all types of law violations occurred an increase in their number, while other types of changes not - are on the same level. This is due to the increase of inspections to comply with the law of the land and the detection of violations and illegal decision to submit land them to the local government offices issued mandatory instructions for all solutions, which resulted in the decision given in conformity with the law of the land, according to some materials transferred to judicial organs for their withdrawal, others under consideration. Other decisions being made to bring them into conformity with the standards and requirements of the land legislation (Сейтхамзина, 2009)

Conclusions and proposals

1. Authorised institutions of the industry as well as the body carrying out function of the subject property rights in relation to the Territorial Land Inspection (TLI) is the Agency for Land Management. Founder proofing is the Government of the Republic of Kazakhstan. The purpose of the proofing is monitoring compliance with the subjects of the land legislation of the Republic of Kazakhstan, the established regime of land use in accordance with their purpose, as well as the legislation of the Republic of Kazakhstan in the field of geodesy and cartography.
2. Solving problems of state control can be viewed by external and internal factors. External factors influencing the development of state control include interaction with prosecutors, architecture, ecology, forestry and water management by means of a work on the final result. The main internal factor influencing the development of state control is primarily an increase in staff numbers and ensuring inter-regional inspections of land vehicles, as well as the improvement of existing legislation.
3. The analysis of the state control over land use and protection suggests the need for a mechanism to improve the system of state control, increasing staffing levels of government inspectors and

logistics. The main reasons for increasing the number of violations of land legislation of the Republic of Kazakhstan were:

- growing demand for land (from 2.6 million to 3.4 million subjects);
 - lack of staff in the central organ, especially in the regions, as well as material and technical equipment for the implementation of state control.
4. The main link in solving problems in the regulation of land relations is the effective elimination of violations of land legislation by introducing administrative measures for the recovery of fines to the state revenue, a decrease in the number of planned inspections of land relations, transparency of decisions taken by public authorities as well as the development of standards and regulations of the state services in the sphere of land relations.
 5. From the above analysis, the possible risk in the area of state control is possible to increase the number of violations of land laws and the possible consequences in case of failure of risk management measures may be the growth of violations of land legislation by an average of 1.0 thousand violations per year.
 6. It is proposed addressing issues of right explanatory work among the population, shortage of staff, as well as material and technical equipment for the implementation of state control over land use and protection.

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