

ABSTRACT

To the dissertation of B.S. Isakhov on the topic «Constitutional and legal foundations of the establishment of the Republic of Kazakhstan as a social state», prepared for the degree of Doctor of Philosophy (PhD) in the specialty «6D030100-Jurisprudence»

Relevance of the research topic. For 28 years, Kazakhstan has been living and developing on the basis of the legal norms of the Constitution, which define our state as a social state. This follows from the need for a theoretical understanding and practical implementation of the constitutional norm on the social state in the Republic of Kazakhstan. The Republic of Kazakhstan as a democratic, rule-of-law state is important not only to ensure equality of everyone before the law and the court, mutual responsibility of the state and the individual, but also to create a system of social rights and guarantees.

An important factor in the formation of a democratic, legal and social state is the high level of development of the country's economy and material provision of the population. In a poor country, it is impossible to create a democratic, rule-of-law state if social protection of people is insufficient. Therefore, in accordance with the Constitution of the Republic of Kazakhstan, more and more attention is paid to the social and living conditions of people and the development of the general culture of the population and approaches to building a civil society and the formation of a social, democratic, rule of law state. We recognize the Republic of Kazakhstan as a social state, whose policy is aimed at creating conditions that ensure a decent life and free human development.

As the experience of modern developed countries shows, the process of creating the foundations of a welfare state is long, multi-stage. Our country is going through this process now. Consequently, the study of the phenomenon of the welfare state, the laws of its development is important not only in theory, but also in practice.

There are different ways of understanding the welfare state. This is called a state that cares about justice, well-being and protection of citizens. But such an approach, reflecting a certain responsibility of the authorities for the social sphere of society, does not yet answer the question of how broad this responsibility is. Does this mean only supporting socially vulnerable groups of people and trying to cope with the most severe cases of poverty? That is, there are ways from minimum standards of assistance to certain categories of the population to universal protection, which allows each person to participate in the life of the country in conditions conducive to improving well-being and individual opportunities.

In other words, in an effort to ensure a certain standard of living for every citizen, the welfare state should not only provide targeted support to certain categories of the population who find themselves in a difficult situation due to age, illness or other reasons, but also pursue a policy aimed at developing the potential of each person.

The relevance of the problems considered in the dissertation is determined by significant reasons of a legal and socio-political nature. An important factor

stimulating the development of the theoretical and legal foundations of the welfare state is the continuous improvement of the pension, housing, family, labor and social spheres, a clear political orientation towards the creation of a legal socially oriented state, the development and implementation of priority national projects in the field of education, healthcare and the food complex. To date, social problems for the activities of government structures prevail in the country.

The scientific relevance of the problem under consideration lies not only in the fact that the theory of the welfare state in our country has not been practically improved for many years, but also in the fact that the process of forming the foundations of such a state is complex and contradictory. By paying more attention to the issues of theory, it is possible to avoid many mistakes in the practice of state-building.

Nowadays, the people's demand for the principle of social justice in the process of creating a new Kazakhstan in the country testifies to the relevance of the welfare state. These questions constitute the relevance of the research topic.

The object of the dissertation research. The implementation of the legal policy of the welfare state, social relations in the sphere of social life, depending on the dynamics of law is the object of research. Constitutional and legal norms that consolidate and regulate the features of the Republic of Kazakhstan as a social state, the basis of its interaction with the population.

The subject of the dissertation research. Analysis of the legal essence of the welfare state, its features and main characteristics, the conditions of its formation and functioning, the evolution of the consolidation of the welfare state in the Constitution of the Republic of Kazakhstan, as well as comparative legal and historical analysis of various models of the welfare state in a number of foreign countries.

The purpose of the study. Study of the genesis of the socio-economic phenomenon with a comprehensive consideration of the essence of the welfare state, identification of the main directions of formation and organizational and legal foundations of the development of the welfare state in the Republic of Kazakhstan at the present stage, scientific and theoretical studies of the formation and improvement of the welfare state in various foreign countries, development of proposals for effective moments.

The author also studies and analyzes in detail the legislation in the field of social and legal support of minors, in the field of implementation of priority national projects.

To achieve the goal, the following tasks are necessary:

- to consider the genesis of the ideas of the welfare state and the formation of the main scientific categories that reveal the legal essence of the welfare state;
- to formulate, on the basis of comparative legal analysis, a scientific explanation of the implementation of various models of the welfare state and the signs, principles of the modern welfare state;
- determination of the theoretical basis for the formation of a social state in the Republic of Kazakhstan;

- analysis of social and political-legal relations of the existence of a social and legal state;
- to study the legal, historical, Soviet and economic concepts of the social state in its essence;
- consideration of the social role of the state in a market economy;
- to consider the patterns of formation of the concept of a social state in the Republic of Kazakhstan and foreign countries;
- understanding the main directions of the social policy of the modern state of Kazakhstan in relation to various categories of citizens.

Scientific novelty of the dissertation research. The dissertation makes one of the first attempts to develop the concept of the formation of a welfare state in an independent country in a transitional post-Soviet society. To achieve this goal, the author of the dissertation attempts to comprehensively study the genesis of the ideas of the welfare state, its main features, objective and subjective factors of their implementation from the point of view of law, the legal essence of a scientifically based welfare state, its main characteristics and priorities, as well as the features of constitutional and legal integration. The elements of scientific novelty are the provisions of the dissertation research concerning the practice of implementing social reforms in Kazakhstan at the present stage, in particular in the form of priority national projects. It is proved that the creation of a social state is possible only in organic unity with the formation of a democratic rule of law state and a developed civil society.

As a scientific novelty of the research , the following conclusions and ideas are put forward for protection:

1. The idea of a social state includes the concept of the formation on its basis of human and civil rights of a universal, integral, international character. To implement it, it is necessary to form your own concept of a welfare state in order to understand what such a characteristic means. Of course, foreign countries have accumulated vast experience in the practice of the welfare state, fundamental principles have been implemented and the basic foundations of the welfare state have been tested in practice, but, according to the author, each country has its own path associated with historical, national, economic and other features. Each state combines the main features of the welfare state in different ways, different institutions of the welfare state prevail in each country, and each has its own «social» model. In our opinion, the welfare state is a special order of building social life, which is the highest evolutionary stage of the development of a democratic and rule-of-law state with a socially oriented market economy based on the «restraint» of the principles of solidarity, social justice and social equality, the main objectives of which are to ensure a decent life and free development of each person and guarantee his rights and freedoms.

The concept of «social» in relation to the theory of the welfare state should be considered not only as a kind of interaction between the individual and the state, but also as an active participant in the interaction of the individual with the state. The necessity of forming its own model of a social state, its own ways of implementing the principle established by the Constitution is proved. In the course of the

dissertation research, we present the author's definition: «The social state in the Republic of Kazakhstan is a legal democratic state, the highest value of which is a person, a means of ensuring equal opportunities for citizens for the free development and realization of everyone's creative potential, their needs and interests». The legal significance of this definition is that the welfare State guarantees the economic, social and cultural rights of man and citizen at the legislative level, recognizes the life, health, freedom, human dignity and material well-being of everyone at the constitutional, legal level and ensures its daily law enforcement and law enforcement practice.

2. The prerequisite for the emergence of a socio-legal state in the Republic of Kazakhstan is the transformation of Kazakh society from a Soviet one into an independent, democratic, legal, secular, social society.

3. The welfare state itself differs in certain characteristics. The main features of the welfare state can be considered:

a) this is a state in which a person, his life, well-being and personal dignity are the highest value;

b) the internal and external policy of the welfare state is aimed not only at protecting national and group interests, but above all at protecting the rights, freedoms and legitimate social interests, economic interests of man and citizen;

c) each administrative decision of the welfare state has a legal socially oriented character;

d) this is a state that pursues an active social policy, ensuring social orientation not only of the public, but also of the private sectors of the economy;

e) the welfare state is based on the mutual social responsibility of the authorities, society and the citizen;

f) the welfare state does not tolerate bureaucracy, corruption and other antisocial manifestations;

g) the object of the welfare state is not only the social sphere, but also socially oriented legal support of the social orientation of the economy, culture, education, health, sports, individual and collective initiative, stimulating members of society to more active independent care for their well-being and the well-being of loved ones, etc.

4. The basis of the socio-legal state is the principle of social justice, declared or not declared by the Basic Law of the state. The social state should be built directly in the Republic of Kazakhstan on the basis of the principles of justice, legislative consolidation of the sociality of the state, the principle of social equalization, providing a citizen with the opportunity to provide for himself through social assistance.

5. It is impossible to create a social state in the Republic of Kazakhstan without taking into account the legal and organizational achievements of foreign countries, in which certain models of the social state and, accordingly, certain models of social policy are reproduced.

6. The social function of the socio-legal state in the Republic of Kazakhstan is realized through the use of social policy instruments and the reform of inefficiently acting persons. These reforms should include pension systems, employment systems

and decent working conditions, social systems for the formation of the labor market, ensuring the rights of minors in the Republic of Kazakhstan.

7. At the present stage of the implementation of priority national projects is the most effective tool for the implementation of social and legal policy of the state.

The theoretical and practical significance of the research lies in the fact that certain provisions of the work are introduced into scientific circulation for the first time and can be used in the process of deepening, further development of comparative historical and legal analysis of modern problems of state and law construction and improvement of domestic legislation in the field of legal regulation of social relations. The results of the study in some cases complement the provisions of the general theory of state and law, the history of political and legal doctrines, and some conclusions of the work help to expand the scope of their disciplines, since the topic under study is a continuation of the historical tradition in the study of state and law, the legal status of the individual.

When conducting classes on the theory of law and the state, constitutional, administrative and civil legislation, housing, labor, pension and other branches of law, theoretical and applied issues of philosophy, sociology and political science, a number of provisions can be applied in the educational process.

The validity and reliability of the results obtained is determined by a wide range of applied legal, political science, philosophical and other literature, regulatory sources.