

Scientific Herald of Uzhhorod University

Series "Physics"

Journal homepage: <https://physics.uz.ua/en>

Issue 55, 851–859

Received: 28.11.2023. Revised: 13.01.2024. Accepted: 29.02.2024



DOI: 10.54919/physics/55.2024.85fd1

Analysis of non-profit corporations' status in the Republic of Kazakhstan

Tatyana Klimova*

“Kazzinc ltd.”

070002, 1 Promyshlennaya Str., Ust-Kamenogorsk, Republic of Kazakhstan

Sara Idrysheva

M. Narikbayev KAZGUU University

010000, 8 Korgalzhyn Highway, Astana, Republic of Kazakhstan

Abstract

Relevance. This paper holds the scientific and legal analysis of the status of non-profit organisations in the Republic of Kazakhstan in terms of the presence or absence of signs of corporations in comparison with similar legal entities under the legislation of the Russian Federation. The relevance of the subject under study is conditioned upon the fact that the civil legislation of Kazakhstan lacks norms on the definition and types of corporate organisations; and the science of civil law holds next to no studies on the legal status of non-profit organisations as corporations.

Purpose. The purpose of this study is to identify the signs of corporations in the legislative acts of the Republic of Kazakhstan on non-profit organisations.

Methodology. The study employed a comparative legal analysis and the application of international corporate governance principles to identify and evaluate the corporate characteristics of non-profit organizations in Kazakhstan.

Results. The analysis revealed that Kazakhstani non-profit organizations exhibit almost all identified signs of corporations, such as non-distribution of profit among members, rights to participation, and the formation of supreme governing bodies. Special attention is given to self-regulating organizations (SROs), which, due to their public function and compliance with corporate governance principles, are proposed to be recognized as non-profit corporations.

Conclusions. Based on the results of the study, the authors conclude about the need to classify self-governing organisations, including associations and unions based on professional membership of participants, notary chambers, bar associations, chambers of private bailiffs, etc., as corporate non-profit organisations.

Keywords: self-regulating organisations; public associations; associations; unions; bar associations; notary chambers.

Introduction

Corporations constitute a relatively new phenomenon in the legislation and legal science of the CIS countries (Commonwealth of Independent States) [1]. In particular, the civil legislation of the Republic of Kazakhstan has not yet included norms on the concept, types and other aspects of corporations and corporate relations. At the same time, the institution of corporate dispute resolution has been consolidated and actively applied in procedural legislation

for more than a decade, which entails various issues of law enforcement due to the lack of substantive legal norms. In particular, the most problematic issue in judicial practice is the question of the jurisdiction of corporate disputes involving non-profit organisations, which judicial practice refers to corporations in rare cases.

The legislation of the Russian Federation (RF) is more progressive in this regard, where since 2012 the Civil Code of the Russian Federation (CC RF) [2] has introduced the

Suggested Citation:

Klimova T, Idrysheva S. Analysis of non-profit corporations' status in the Republic of Kazakhstan. *Sci Herald Uzhhorod Univ Ser Phys.* 2024;(55):851-859. DOI: 10.54919/physics/55.2024.85fd1

*Corresponding author



Copyright © The Author(s). This is an open access article distributed under the terms of the Creative Commons Attribution License 4.0 (<https://creativecommons.org/licenses/by/4.0/>)

division of legal entities into corporate and unitary. Nevertheless, there is no legal definition of a corporation in the Civil Code of the Russian Federation [2] and Federal Law No. 208-FZ “On Joint Stock Companies” [3]. Consequently, the features that legal entities belonging to corporate organisations must comply with are not defined. In this regard, the state corporations of the Russian Federation should be mentioned, the status of which introduces a certain inconsistency in the legal regulation of commercial and non-profit organisations, corporations, and unitary legal entities (Clause 3, Article 50 of the CC RF [2]). After all, based on the second paragraph of Clause 1, Article 65.1 of the CC RF [2], despite the presence of the word “corporation” in the name of the legal form, this type of legal entities is referred not to corporate, but to unitary legal entities. The question of attributing non-profit organisations, their certain types, to corporate organisations in the legal science of the CIS countries remains controversial.

Under these conditions, the purpose of this study is to identify the signs of corporations in the legislative acts of the Republic of Kazakhstan on non-profit organisations. To achieve the said purpose, the authors has identified the following 4 signs of non-profit corporations from the norms of the CC RF [2]: participants have the right to membership/participation in the corporation; they also form the supreme governing body; the main purpose of the activity is not to make a profit; profit is not distributed among the participants. Furthermore, the authors applied the generally recognised international principles of corporate governance on ensuring transparency of activities by corporations, the need to publish corporate events and financial statements, and some others. Based on the scientific and legal analysis performed through this method, the norms indicating the corporate nature of the activities and status of non-profit organisations have been identified both in the general law on these organisations and in special laws on certain types of non-profit organisations [4-8]. As a result, the authors substantiates the position on the need to classify self-governing organisations, whose activities are public, as non-profit corporations, including public associations, bar associations, notary chambers and chambers of private bailiffs, associations, and unions, since the legislation on these and other types of non-profit organisations contains almost all the signs of corporations.

Signs of corporate organisations

CC RF [2] classifies consumer cooperatives, public organisations, associations (unions), partnerships of property owners, Cossack societies, communities of indigenous peoples as non-profit corporations (Article 123.1). However, such a legislative decision still causes mixed opinions among Russian researchers. Thus, K.I. Mayorova [9] believes that of all the non-profit organisations listed in Clause 2, Article 123.1 of the CC RF [2], only members of consumer cooperatives and non-profit partnerships have rights and obligations similar to those that arise from members of commercial corporations. Yu.G. Leskova [10] considers unions (associations) related to self-governing organisations to be a “typical example” of a corporation. I.S. Shytkyna [11] refers to non-profit corporations as consumer cooperatives, non-profit

partnerships, as well as unions (associations). Therewith, the attribution of indigenous communities to corporate organisations is not based on the presence of signs of corporations in their activities.

Due to the lack of a legal definition of a corporation, the signs of a corporation from the definition of non-profit corporate organisations should be mentioned (Clause 1, Article 123.1 of the CC RF [2]): “Non-profit corporate organisations are legal entities that do not pursue profit as the main purpose of their activities and do not distribute the profits between the participants (Clause 1, Article 50 and Article 65.1), whose founders (participants) acquire the right to participate (membership) in them and form their supreme body according to Clause 1, Article 65.3 of this Code”. The above definition suggests that the signs of non-profit corporate legal entities (corporations) should be distinguished as follows:

- profit-making is not the main purpose of the activity;
- the profit received is not distributed among the participants;
- founders (participants) have the right to participate (membership) in the corporation;
- the founders (participants) form the supreme body of the corporation.

In unitary legal entities, according to the civil legislation of Russia, participants do not receive membership rights and do not form a supreme governing body. Consideration of legislative norms on legal entities for the detection of signs of corporations in them should be carried out considering the principles of corporate governance of the Organisation for Economic Cooperation and Development (OECD), mainly on transparency of doing business in companies, openness of information, observance of equal rights of participants, the requirements for compliance with which are imposed on joint-stock companies in Kazakhstan as the most prominent representatives of corporations [12-16]. There are no studies on non-profit corporations in the Kazakh legal science yet, which makes it imperative to conduct at least a brief scientific analysis on the examples of several types of non-profit organisations.

Thus, according to Article 2 of the Law of the Republic of Kazakhstan No. 142-II “On Non-Profit Organisations” [17], a non-profit organisation is a legal entity that does not have income generation as its main purpose and does not distribute the net income received among participants (a similar rule is contained in Clause 1, Article 34 of the Civil Code of The Republic of Kazakhstan (CC RK) [18]). However, for the signs of a corporate organisation, it is insufficient to merely have no purpose of generating income and not distributing the net income received among the participants. Moreover, according to the legislation of the Republic of Kazakhstan and other countries, some non-profit organisations are allowed to engage in entrepreneurial activity if it corresponds to their statutory goals. For this reason, this study will continue to search for other signs of non-profit organisations and their individual types to identify the presence or absence of signs of a corporation. Pursuant to Article 4 of the Law of the Republic of Kazakhstan No. 142-II “On Non-Profit Organisations” [17], non-profit organisations can be created to achieve social, cultural, scientific, educational, charitable, managerial, and other goals. Thus, the goals of

the activities of non-profit organisations in Kazakhstan indicate the public nature of the activities of most of them, affecting the interests of a plurality – an unlimited circle of people, concerning the interests of almost the entire society. M. Jacobson [19] also believes that public interests are implemented through the activities of non-profit organisations.

In the legislation of the Republic of Kazakhstan, indirect evidence of the attribution of non-profit organisations to corporations is found in Article 36 “Conflict of Interest” and Article 37 “Resolution of conflict of interest” of the Law of the Republic of Kazakhstan No. 142-II “On Non-Profit Organisations” [17]. It is known that the institution of conflict of interests of participants and organisations is typical mainly for corporate organisations. Furthermore, from the very beginning of the declaration of independence, the Republic of Kazakhstan began to pursue a policy of denationalisation of the conventional functions of the state by transferring them to a competitive environment, i.e., to various non-governmental organisations. As a result, for more than 30 years, such functions of the state as the protection of rights and legally protected interests through the provision of notarial, legal services, execution of judicial and other acts, services for the organisation of rehabilitation and bankruptcy procedures, evaluation, audit, expert, and other services have been transferred to the private sphere on the terms of self-regulation.

Self-regulating organisations as non-profit corporations

On November 12, 2015, the Law of the Republic of Kazakhstan No. 390-V ZRK “On Self-Regulation” [20] was adopted, governing public relations concerning self-regulation of business and professional entities. Notably, such organisations in Kazakhstan are created mainly in the legal form of public associations, associations/unions. Relating to the subject under study, the norms of the Law of the Republic of Kazakhstan No. 390-V ZRK “On Self-Regulation” [20] of subjects of professional, i.e., non-commercial activity, are of particular interest. Members of a self-regulating organisation (SRO) in the field of professional activity are individuals entitled to engage in professional activity according to the legislation of the Republic of Kazakhstan (Clause 3, Article 21 of the Law). With this type of self-regulation, the requirements for the number of their members are established by the laws of the Republic of Kazakhstan. Article 1 “Basic concepts” clearly describes the terminology of corporate law as follows: “personal interest”, “conflict of interests”, “standard of a self-regulating organisation” (analogy of the corporate code) [20]. The public nature of the functions performed by the SRO is evidenced by the norm of Clause 3, Article 3 of the Law of the Republic of Kazakhstan No. 390-V ZRK “On Self-Regulation” [20]: “Self-regulation based on mandatory membership (participation) in the field of entrepreneurial or professional activity is introduced in areas of activity associated with the implementation of state functions or the need to delegate certain functions performed by state bodies”. The main objectives of self-regulation (Article 4), among others, are defined as follows: transparency of activities, reputation dependence. These goals are typical for corporate organisations.

Apart from the charter and other documents, the SRO also submits for registration the “standards and practices of a self-regulating organisation”. And this is nothing more than the rules of corporate behaviour, requirements for the qualification of participants. Furthermore, such an organisation must be registered in the Register of Self-Regulating Organisations (Article 9). In addition to the name and location, the charter should also stipulate the conditions and procedure for admission to membership and termination of membership; the structure, procedure for the formation, competence, and terms of authority of management bodies; the procedure, reporting periods of self-regulatory organisations, participants, and control over their activities; the rights and obligations of SRO and its members, including the obligation compliance with the rules and standards adopted by them (Article 10). The management bodies of the SRO are as follows (Article 12): general meeting; collegial management body; executive management body; control body (audit commission). Thus, the dominant part of the above legal norms is inherent in corporate organisations. The corporate nature of non-profit SROs is also confirmed by their following rights: conducting professional studies, certification of members; approval of rules and standards; monitoring their compliance; application of measures of influence against their members (Article 18). The duties of the SRO (Article 19) also indicate the presence of the following corporate responsibilities: to inform members about the inflow and expenditure of money; to ensure information transparency of its activities and the activities of its members [20-22].

Another feature of the corporation is the obligation of the SRO stipulated in Article 23 of the Law of the Republic of Kazakhstan No. 390-V ZRK “On Self-Regulation” [20] to provide access to information by posting on its Internet resource and/or publishing information in the media distributed throughout the Republic of Kazakhstan: about the composition of its members; about the conditions, methods, and procedure for ensuring the responsibility of members to consumers of the goods (works, services) produced by them and other persons; about the conditions of membership in a self-regulating organisation; about the content of rules and standards; on the structure and competence of management bodies, the quantitative and personal composition of the collegial and executive management bodies; about the sole executive body; on decisions taken by the general meeting and the collegial body; about cases of bringing members of the organisation to responsibility; about the annual financial statements and the results of its audit. Self-governing organisations based on professional activity in Kazakhstan include bar associations, chambers of legal consultants, notary chambers, chambers of private bailiffs, and some others. Pursuant to Article 17 of the Law of the Republic of Kazakhstan No. 142-II “On Non-Profit Organisations” [17], such legal entities belong to “other legal forms of a non-profit organisation” and the specific features of their legal status are governed by special legislative acts. O.V. Romanovskaya [23] also believes that all self-regulatory organisations constitute public corporations and also names among them bar associations and notary chambers, chambers of appraisers. To confirm the position on the corporate nature of these and other non-profit organisations, the authors of this study conducts a selective

analysis of the norms of special laws on self-regulatory organisations.

Bar associations and their main activities

According to Clause 2, Article 50 of the Law of the Republic of Kazakhstan No. 176-VI ZRK “On Advocacy and Legal Assistance” [24], the bar association is a non-profit, independent, professional, self-governing, and self-funded organisation of lawyers created by lawyers to provide legal aid to individuals and legal entities, express and protect the rights and legitimate interests of lawyers, perform other functions. On the territory of the region, the city of republican significance, the capital, one bar association should be formed and operate, membership in the collegium is mandatory. The main tasks of the bar association are as follows: aid, professional support, and protection of members of the bar association in the exercise of their advocacy; logistical and reference and information support for the activities of members of the bar; organisation of professional control over the implementation of advocacy; organisation of the provision of state-guaranteed legal aid and protection by appointment of preliminary investigation and court. Thus, bar associations perform mainly public functions of the state.

The corporate nature of the activity of bar associations is also confirmed by their obligation to develop and post on their Internet resource a Code of Professional Ethics; standards for the provision and criteria for the quality of legal aid; standards for professional development; information on the provision of comprehensive social legal support; decisions of the general meeting (conference), executive bodies; results of the work of the disciplinary commission; report on financial and economic activity of the board [25-28]. The feature of the corporation “participation in the formation of the supreme body” is expressed in the determination of the general meeting by the supreme body of the collegium, the rules on the election of the Presidium of the Collegium and its Chairman by secret ballot for a period of no more than four years (Articles 55; 56). The Audit Commission of the Bar Association is also elected by the general meeting (conference) of the members of the bar association for a term not exceeding two years and is accountable to the supreme governing body of the bar Association. The Republican Bar Association (Article 65) is based on the mandatory membership of bar associations and is formed by the Republican Conference of Bar Associations. The Republican Conference of Bar Associations is convened at least once every two years. The Conference is considered competent if delegates from at least three-quarters of the members of the Republican Collegium take part in its work (Article 67). The collegial executive body of the Republican Collegium is the Presidium, elected by secret ballot for four years, comprising an equal number of lawyers from each collegium, while the same person cannot be in the presidium for more than one term [24].

Notary chambers and chambers of private bailiffs

Law of the Republic of Kazakhstan No. 155-I “On Notaries” [29] establishes that the supreme governing body of the notary chamber is the general meeting, one of the functions of which is the election and termination of the

powers of the chairman of the notary Chamber, members of the management board, audit and disciplinary commissions. This is the feature of the corporation, according to which the corporation members take part in the formation of the supreme body and other governing bodies. The Notary Chamber monitors compliance with the legislation on notaries when performing notarial actions by private notaries; introduces the idea of suspension, deprivation, and termination of the licence of a private notary; organises insurance of civil liability of private notaries; organises internships for persons applying for the right to engage in notarial activities; holds private notaries accountable for violating professional duties and ethics; organises professional development of notaries. The Code of Honour of Notaries was adopted in 2012. These facts indicate the focus of activities on compliance with the rules of corporate conduct by notaries. Chambers of Private Bailiffs (regional and republican) belong to newer, self-regulating organisations created just a few years ago, based on mandatory membership of private bailiffs of the Republic of Kazakhstan. The purpose of the Chambers is to organise the activities of private bailiffs for the execution of enforcement documents, the improvement, and development of the institution of private judicial enforcement. The Code of Honour, which was adopted on January 22, 2018, is repeatedly referred to in the text as the “corporate” code [29].

The governing bodies of the Republican Chamber are the Congress, the presidium, the board, and the audit commission (Article 39 of the Charter of the Republican chamber of private bailiffs of the Republic of Kazakhstan [30]). Similar governing bodies are available in regional chambers. In 2020, Regulation on disciplinary responsibility of private bailiffs [31] was approved. The approval of qualification requirements, continuous professional development of its members, the presence of a disciplinary commission, and the Code of Honour indicate the corporate nature of this organisation. Furthermore, the Republican Chamber of Private Bailiffs publishes monthly Report of financial and economic activity [32] on its Internet resource, which is prescribed in Article 50 of Charter of the Republican chamber of private bailiffs of the Republic of Kazakhstan [30], and complies with international principles of corporate governance. In Kazakhstan, the organisation is in the form of an association/union can be created by individual entrepreneurs and (or) legal entities, as well as public associations and other non-profit organisations (Article 110 of the CC RK [18]). The members of the association (union) bear subsidiary responsibility for its obligations.

Next, the authors considers the presence/absence of corporate norms in the activities of such non-profit organisations on the example of the United Association of Realtors of Kazakhstan [33]. Immediately upon entering the Internet resource of this association, attention is drawn to the presence of such a body as the Committee on Professional Ethics and Membership in the association, which clearly testifies to the corporate nature of the organisation. Furthermore, the said web resource has a Regulation on the Attestation Commission [34] of February 9, 2012 published. The certification is defined as a verification of individuals’ qualification who have expressed a desire or are engaged in real estate activities,

with the issuance of a qualification certificate of a realtor of the appropriate category to candidates who have successfully passed the qualification exams required. Due to the absence of a legislative act on real estate activity in Kazakhstan, a draft of National standards for such activities has been developed, aimed at increasing the requirements for the provision of this type of public services, which was planned to be introduced by the end of 2020 [33; 35; 36]. Consequently, almost all the requirements for corporations are imposed on the activities of this association.

According to the Law of the Republic of Kazakhstan No. 129-V ZRK "On the National Chamber of Entrepreneurs of the Republic of Kazakhstan" [37] and the Accreditation rules and qualification requirements for accreditation of associations (unions), self-regulatory organizations in the field of entrepreneurial activity in the system of the National Chamber [38] as of November 2020, 184 associations/unions were registered, which included the "Association "Self-governing organisation of betting and lottery business of the Republic of Kazakhstan""; "Kazakhstan Association of Medical Laboratories", "Association of Higher Educational Institutions of the Republic of Kazakhstan", "Association of Tour Operators of the Republic of Kazakhstan", "Union of Commodity Exchanges of the Republic of Kazakhstan "OTAN""; "Union of Builders of Kazakhstan" [39]. In the United States of America, religious organisations are also considered non-profit corporations, as well as corporations in the field of education (schools, colleges, universities, etc.), as well as charitable foundations [40]. By analogy with the Russian legislation, consumer cooperatives can be attributed to non-profit corporations. Thus, mutual insurance companies in Kazakhstan in the legal form of a consumer cooperative also have all the signs of a corporation [41].

Features of ownership of non-profit corporations

Russian researchers note that the rights and obligations of members of consumer cooperatives and non-profit partnerships are similar to those of members of commercial corporations. In this regard, some researchers refer to non-profit corporations only those legal entities whose members transfer property to the authorised capital and retain rights of claim in its regard. Hence, as they believe, according to the rules of formal logic, non-profit organisations that become owners of the property transferred to them, and their participants do not have any rights to the property transferred to such an organisation, cannot be considered as corporations [42-45]. Proceeding from the fact that this refers to the non-governmental non-commercial legal entities in this paper, respectively, the ownership of such legal entities refers to a private form of ownership. Nevertheless, the ownership right of non-profit organisations is not a classic, commonplace right of private property. In justification, the authors of this study cites such an indisputable fact that the property of non-profit organisations has not a universal, but a targeted purpose. Civil legislation establishes a fairly wide range of restrictions on the exercise of the rights to own, use, and dispose of property by non-profit organisations, which is theirs; the sources of property acquisition by non-profit

organisations differ from such sources for commercial organisations.

Thus, the financial source of the fund is money, as well as other property of the founders, voluntary donations and other legal incomes (Clause 4, Article 107 of the CC RK [18]). The property of the bar association is formed by contributions paid by members of the bar association, grants and charitable assistance, donations received from legal entities and individuals (Article 51 of the Law of the Republic of Kazakhstan No. 176-VI ZRK "On Advocacy and Legal Assistance" [24]). The sources of the formation of the property of the Republican Notary Chamber (RNP) are as follows:

- membership fees and other income of RNP members;
- voluntary contributions of notaries and donations of legal entities and individuals;
- proceeds from educational and other events;
- dividends and income on shares and other securities owned by RNP;
- grants received from international non-profit organisations;
- income from the production, economic, publishing, and other activities of the RNP, not prohibited by law;
- funds received by the RNP from the state budget for the implementation of state social orders [46];
- other means not prohibited by law (Clause 7.2 of the Charter of the Republican Notary Chamber [47]).

Members of the Chambers of Appraisers pay an entrance fee and membership fees [48]. The specific feature of non-profit organisations is also that the property is used by them mainly for carrying out socially useful activities.

Conclusions

As a result of a scientific and legal investigation of the set of legal norms on non-profit corporations in Kazakhstan, the authors concludes that apart from the general characteristics of corporations (profit generation is not the main purpose of activity; profit is not distributed among participants; founders/participants have the right to participation/membership in the corporation; they also form the supreme body of the corporation), the corporate requirements in this area have some specific features. Thus, one of the features of the corporate nature of non-profit organisations is compliance with the requirement of constant, systematic "cleansing" of their ranks, that is, self-regulation of professional, ethical relations, professional development of participants in the field of non-profit organisations. It is this requirement that is inherent in the formations considered in this paper. Such a requirement is not imposed on commercial corporations. The study discovered that in Kazakhstan, these should include self-regulating non-profit organisations based on the professional activities of participants, including public associations and many associations/unions also belong to non-profit corporations.

The activities of corporate self-governing non-profit organisations in the field of implementation of professional functions, not entrepreneurial ones (in the legal form of public associations, associations/unions) are public in nature, carried out in the interests of society, the state, since, as the authors has previously emphasised, the functions previously performed by them belonged to the

state represented by its various bodies. The public nature of the activities of non-profit corporations also lies in special legal regulation through the application of many mandatory norms by the legislator. Russian researchers expressed similar opinions. To fill the gap on the institution of corporations in civil legislation, to harmonise civil procedural legislation on the jurisdiction of corporate disputes with substantive legal norms; to develop uniform judicial practice on subjects of corporate relations, especially non-profit corporate organisations, the authors of this study considers it necessary to introduce appropriate

amendments both to the Civil Code of the Republic of Kazakhstan (the general part) and to special legislative acts on certain types of non-profit organisations.

Acknowledgements

None.

Conflict of Interest

None.

References

- [1] Internet portal of the CIS [Internet]. Internet portal of the CIS: Created by decision of the Council of Heads of State of the CIS; 2022 [cited 2023 Nov 16]. Available from: <https://e-cis.info/country/>
- [2] The State Duma. Civil Code of the Russian Federation [Internet]. 1994 [cited 2023 Nov 16]. Available from: <https://docs.cntd.ru/document/9027690>
- [3] The State Duma. “On Joint Stock Companies” [Internet]. 1995 [cited 2023 Nov 16]. Federal Law No. 208-FZ. Available from: <https://fzakon.ru/laws/federalnyy-zakon-ot-26.12.1995-n-208-fz/>
- [4] Soyfer TV. The concept of non-profit organizations in Russian Civil Law. Moscow: Kutafin Moscow State Law University; 2013.
- [5] The concept of a non-profit organization [Internet]. Official website of the Nizhnevartovsk District Administration; 2022 [cited 2023 Nov 16]. Available from: http://nvraion.ru/civil-activity/non-profit-organization/pon_nko/
- [6] Horoshko O-I, Horoshko A, Bilyuga S, Horoshko V. Theoretical and Methodological Bases of the Study of the iImpact of Digital Economy on World Policy in 21 Century. *Tech Forecast Soc Change*. 2021;166:120640.
- [7] Khodakivska O, Kobets S, Bachkir I, Martynova L, Klochan V, Klochan I, Hnatenko I. Sustainable development of regions: Modeling the management of economic security of innovative entrepreneurship. *Int J Adv Appl Sci*. 2022;9(3):31-38.
- [8] Kerimkhulle S, Alimova Z, Slanbekova A, Baizakov N, Azieva G, Koishybayeva M. The Use Leontief Input-Output Model to Estimate the Resource and Value Added. In: *SIST 2022 - 2022 International Conference on Smart Information Systems and Technologies, Proceedings*. Nur-Sultan: Institute of Electrical and Electronics Engineers; 2022. DOI: 10.1109/SIST54437.2022.9945746
- [9] Mayorova KI. Corporate relations in non-commercial organizations: problems of defining their nature and contents. *Actual Probl Russ Law*. 2015;6(55):121–4.
- [10] Leskova YuG. Self-regulatory organizations in the system of non-profit corporate organizations. *Jurid Sci*. 2011;3:1-4.
- [11] Shytkyna IS. Corporate Law. Moscow: Estatut; 2018.
- [12] Ministry of Industry and Construction of the Republic of Kazakhstan [Internet]. Website of the Ministry of Industry and Construction of the Republic of Kazakhstan; 2022 [cited 2023 Nov 16]. Available from: <https://www.gov.kz/memleket/entities/mps?lang=en>
- [13] Principes de gouvernance d’entreprise du G20 et de l’OCDE [Internet]. Rapport de l’OCDE aux ministres des Finances et aux gouverneurs des banques centrales du G20; 2015 [cited 2023 Nov 16]. Available from: <https://www.oecd.org/daf/ca/Corporate-Governance-Principles-FRA.pdf>
- [14] Iasechko S, Haliantych MK, Skomorovskyi VB, Zadorozhnyi V, Obryvkina O, Pohrebniak O. Contractual relations in the information sphere. *Syst Rev Pharm*. 2020;11(8):301-303.
- [15] Kerimkhulle S, Saliyeva A, Makhazhanova U, Kerimkulov Z, Adalbek A, Taberkhan R. The input-output analysis for the wholesale and retail trade industry of the Kazakhstan statistics. *E3S Web Conf*. 2023;376:05023.
- [16] Prokopov VG, Fialko NM, Sherenkovskaya GP, Yurchuk VL, Borisov YuS, Murashov AP, Korzhik VN. Effect of the coating porosity on the processes of heat transfer under, gas-thermal atomization. *Poroshkovaya Metall*. 1993;(2):22-26.
- [17] President of the Republic of Kazakhstan. “On Non-Profit Organisations” [Internet]. 2001. [cited 2023 Nov 17] Law of the Republic of Kazakhstan No. 142-II. Available from: https://online.zakon.kz/Document/?doc_id=1021519&pos=3;-106#pos=3;-106
- [18] President of the Republic of Kazakhstan. Civil Code of the Republic of Kazakhstan [Internet]. 1994 [cited 2023 Nov 17]. Available from: https://online.zakon.kz/document/?doc_id=1006061#sub_id=0
- [19] Jacobson M. Law of Public Interest [Internet]. YurClub; 2003 [cited 2023 Nov 17]. Available from: <http://www.yurclub.ru/docs/other/article36.html>
- [20] President of the Republic of Kazakhstan. “On Self-Regulation” [Internet]. 2015. [cited 2023 Nov 17] Law of the Republic of Kazakhstan No. 390-V ZRK. Available from: https://online.zakon.kz/Document/?doc_id=36858926&pos=2;-88#pos=2;-88
- [21] Mishchenko V, Naumenkova S, Grytsenko A, Mishchenko S. Operational risk management of using electronic and mobile money. *Banks Bank Syst*. 2022;17(3):142-157.

- [22] Korzhyk V, Khaskin V, Grynyuk A, Ganushchak O, Peleshenko S, Konoreva O, Demianov O, Shcheretskiy V, Fialko N. Comparing Features In Metallurgical Interaction When Applying Different Techniques Of Arc And Plasma Surfacing Of Steel Wire On Titanium. *East-Eur J Enter Tech*. 2021;4(12-112):6-17.
- [23] Romanovskaya OV. Public corporation: concept, meaning, problems and prospects for determining the legal status. *Reform Law*, 2011;2:3-23.
- [24] President of the Republic of Kazakhstan. “On Advocacy and Legal Assistance” [Internet]. 2018. [cited 2023 Nov 17] Law of the Republic of Kazakhstan No. 176-VI ZRK. Available from: https://online.zakon.kz/Document/?doc_id=33024087&pos=2;-106#pos=2;-106
- [25] Makhazhanova U, Kerimkhulle S, Mukhanova A, Bayegizova A, Aitkozha Z, Mukhiyadin A, Tassuov B, Saliyeva A, Taberkhan R, Azieva G. The Evaluation of Creditworthiness of Trade and Enterprises of Service Using the Method Based on Fuzzy Logic. *Appl Sci (Switz)*. 2022;12(22):11515. DOI: 10.3390/app122211515
- [26] Kerimkhulle S, Aitkozha Z, Saliyeva A, Kerimkulov Z, Adalbek A, Taberkhan R. Using Technical and Structural Coefficients of Economic Statistics to Equalize Flows of Input-Output Table. *Lect Notes Networks Syst*. 2023;596:501-511. DOI: 10.1007/978-3-031-21435-6_44
- [27] Yatsiv I, Yatsiv S, Smulka O. Formation of Production Technological Efficiency in the Agricultural Enterprises of Ukraine. *Int J Inf Tech Project Manag*. 2022;13(2). DOI: 10.4018/IJITPM.311843
- [28] Paton BE, Chernets AV, Marinsky GS, Korzhik VN, Petrov VS. Prospects of using plasma technologies for disposal and recycling of medical and other hazardous waste. Part 1. *Probl Spetsial Electr*. 2005;(3):49-57.
- [29] President of the Republic of Kazakhstan. “On Notaries” [Internet]. 1997. [cited 2023 Nov 18] Law of the Republic of Kazakhstan No. 155-I. Available from: https://online.zakon.kz/document/?doc_id=1008028&pos=2;-88#pos=2;-88
- [30] Charter of the Republican chamber of private bailiffs of the Republic of Kazakhstan [Internet]. Republican chamber of private bailiffs of the Republic of Kazakhstan; 2018 [cited 2023 Nov 18]. Available from: https://zhso.kz/index.php?view=catalog&main_cat=1&cat_id=11
- [31] Presidium of the Republican Chamber of Private Bailiffs [Internet]. 2019. [cited 2023 Nov 18] Regulation on disciplinary responsibility of private bailiffs. Available from: https://online.zakon.kz/Document/?doc_id=36580023&pos=6;-101#pos=6;-101
- [32] Report of financial and economic activity [Internet]. Republican chamber of private bailiffs of the Republic of Kazakhstan; 2022 [cited 2023 Nov 18]. Available from: https://zhso.kz/index.php?view=catalog&cat_id=25
- [33] United Association of Realtors of Kazakhstan [Internet]. UARK; 2022 [cited 2023 Nov 19]. Available from: <https://uark.kz/>
- [34] Regulation on the Attestation Commission [Internet]. Association of Legal Entities of the “United Association of Realtors of Kazakhstan”; 2012. Available from: https://uark.kz/ru/page/polozhenie-ob-attestacionnoy-komissii_28
- [35] Kerimkhulle S, Saliyeva A, Makhazhanova U, Kerimkulov Z, Adalbek A, Taberkhan R. The estimate of innovative development of construction industry in the Kazakhstan. *E3S Web Conf*. 2023;389:06004.
- [36] Fialko NM, Prokopov VG, Meranova NO, Borisov YuS, Korzhik VN, Sherenkovskaya GP. Thermal physics of gasothermal coatings formation processes. State of investigations. *Fiz Khim Obrabot Mater*. 1993;(4):83-93.
- [37] President of the Republic of Kazakhstan. “On the National Chamber of Entrepreneurs of the Republic of Kazakhstan” [Internet]. 2013. [cited 2023 Nov 19] Law of the Republic of Kazakhstan No. 129-V ZRK. Available from: https://online.zakon.kz/Document/?doc_id=31416500&pos=2;-106#pos=2;-106
- [38] Presidium of the National Chamber of Entrepreneurs of the Republic of Kazakhstan “Atameken” [Internet]. 2016. [cited 2023 Nov 19] Accreditation rules and qualification requirements for accreditation of associations (unions), self-regulatory organizations in the field of entrepreneurial activity in the system of the National Chamber. Available from: https://online.zakon.kz/Document/?doc_id=39936337
- [39] Accredited Associations [Internet]. National Chamber of Entrepreneurs of the Republic of Kazakhstan “Atameken”; 2022 [cited 2023 Nov 19]. Available from: <https://atameken.kz/ru/pages/11-akkreditovannye-associacii>
- [40] Syrodoyeva ON. Problems of legal personality in US Law. *Jurisprud*. 1992;4:25-35.
- [41] President of the Republic of Kazakhstan. “On Mutual Insurance” [Internet]. 2006. [cited 2023 Nov 19] Law of the Republic of Kazakhstan No. 163-III ZRK. Available from: https://online.zakon.kz/Document/?doc_id=30062644&pos=2;-88#pos=2;-88
- [42] Pakhomova NN. Civilistic theory of corporate relations. Ekaterinburg: Tax and Financial Law; 2005.
- [43] Cherniha R, Serov M. Symmetries, ansätze and exact solutions of nonlinear second-order evolution equations with convection terms, II. *Eur J Appl Math*. 2006;17(5):597-605.
- [44] Drobyazko S, Bondarevska O, Klymenko D, Pletenetska S, Pylypenko O. Model for forming of optimal credit portfolio of commercial bank. *J Manag Inf Decis Sci*. 2019;22(4):501-506.
- [45] Paton BE, Chernets AV, Marinsky GS, Korzhik VN, Petrov VS. Prospects of using plasma technologies for disposal and recycling of medical and other hazardous waste. Part 2. *Probl Spetsial Electr*. 2005;(4):46-54.
- [46] Trusova NV, Kalchenko SV, Tsap VD, Ternovsky VA, Levchenko OP. Restrictions of financing the budget deficit of Ukraine. *Int J Econ Res*. 2017;14(14):353-364.

- [47] Charter of the Republican Notary Chamber [Internet]. Republican Notary Chamber; 2012. [cited 2023 Nov 19]. Available from: <http://www.notariat.kz/respublikanskaya-notarialnaya-palata/ustav-rnp/53-ustav-respublikanskoj-notarialnoj-palaty.html>.
- [48] President of the Republic of Kazakhstan. “On Valuation Activities in the Republic of Kazakhstan” [Internet]. 2018. [cited 2023 Nov 19] Law of the Republic of Kazakhstan No. 133-VI ZRK. Available from: https://online.zakon.kz/Document/?doc_id=33693545&show_di=1&pos=568;-38#pos=568;-38

Аналіз статусу неприбуткових організацій в Республіці Казахстан

Тетяна Клімова

ТОВ «Казцинк»

070002, вул. Промислова, 1, м. Усть-Каменогорськ, Республіка Казахстан

Сара Ідришева

Університет КАЗГІОУ імені М.С. Нарікбаєва

010000, Коргалжинське шосе, 8, м. Астана, Республіка Казахстан

Анотація

Актуальність. У цій статті проводиться науково-правовий аналіз статусу некомерційних організацій в Республіці Казахстан з точки зору наявності або відсутності ознак корпорацій у порівнянні з аналогічними юридичними особами за законодавством Російської Федерації. Актуальність досліджуваної теми обумовлена тим, що в цивільному законодавстві Казахстану відсутні норми про визначення та види корпоративних організацій, а в науці цивільного права практично відсутні дослідження, присвячені правовому статусу некомерційних організацій як корпорацій.

Мета. Метою цього дослідження є виявлення ознак корпорацій у законодавчих актах Республіки Казахстан про неприбуткові організації.

Методологія. У дослідженні використано порівняльно-правовий аналіз та застосування міжнародних принципів корпоративного управління для визначення та оцінки корпоративних характеристик неприбуткових організацій у Казахстані.

Результати. Аналіз показав, що казахстанським неприбутковим організаціям притаманні майже всі ідентифіковані ознаки корпорацій, такі як нерозподіл прибутку між учасниками, право на участь та формування вищих органів управління. Окрему увагу приділено саморегульним організаціям (СРО), які, зважаючи на їхню публічну функцію та відповідність принципам корпоративного управління, пропонується визнати некомерційними корпораціями.

Висновки. За результатами дослідження автори доходять висновку про необхідність віднесення самоврядних організацій, зокрема асоціацій та спілок, заснованих на професійному членстві учасників, нотаріальних палат, адвокатських об'єднань, палат приватних виконавців тощо, до корпоративних неприбуткових організацій.

Ключові слова: саморегульні організації; громадські об'єднання; асоціації; спілки; колегії адвокатів; нотаріальні палати.