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Legal Regulation of Agricultural Cooperation. New Approaches and Prospects for Developing Rural Areas

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Abstract

Throughout the post-independence period, the development of agriculture and rural areas has been among the main priorities of Kazakhstan's economic policy.

This study considers new approaches and prospects for the legal regulation of agricultural cooperation and the development of rural areas.

The article analyzes the legal regulation of agricultural cooperation in the Republic of Kazakhstan and foreign countries. The authors have identified the main constraining factors to the development of agricultural cooperative societies, in particular, and rural areas, in general. They have also determined the key measures for developing agricultural cooperation and rural areas, as well as provided a detailed overview of such measures.

The study results prove that the formation of a multi-level system of agricultural cooperative societies, functioning in collaboration with state (local) authorities, contributes to the development of rural areas.

Keywords: management; legal regulation; agricultural cooperation; rural areas.

JEL Classification: Q13; Q19; K29.

Introduction

The development of agricultural cooperation in the Republic of Kazakhstan requires new legislative approaches and the study of world practice. On October 29, 2015, the Republic of Kazakhstan adopted the Entrepreneurial

Code, whose main part came into force on January 1, 2016. In general, the new Code aims at improving and developing legislation in the field of interaction between business entities and the state, supporting entrepreneurship and eliminating gaps and contradictions in the legal regulation of business relations (Predprinimatelskii Kodeks Respubliki Kazakhstan 2015). It helps to realize the Plan of the Nation "100 Concrete Steps" to implement five institutional reforms and comprehensively regulate public relations in the field of entrepreneurship, including those arising in connection with the interaction of entrepreneurs and the state, issues of state regulation and support of entrepreneurship (Poslanie Prezidenta Respubliki Kazakhstan 2012).

The Law of the Republic of Kazakhstan of October 29, 2015 "On Agricultural Cooperatives" defines the legal status, rights and obligations of members of such agricultural cooperatives, as well as the legal status, procedures for the creation, operation, reorganization and liquidation of agricultural cooperatives and their associations (unions) (Zakon Respubliki Kazakhstan 2015).

An agricultural cooperative is one of the most widespread forms of entrepreneurship in global agriculture. To define the most advanced forms of cooperative management, it is necessary to comprehensively study the world experience. Within the framework of the development of rural areas, the world experience of agricultural cooperatives is extensive and is of great interest for study and use in practical activities of the Republic of Kazakhstan, which indicates that cooperative societies operate in almost all-important sectors of agriculture.

At the same time, rural areas in the Republic of Kazakhstan are based on personal peasant farms engaged in agricultural production on the principles of self-employment. However, individual peasant farms have trouble selling surplus agricultural products and have limited access to credit and financial resources. In rural areas, the production of non-agricultural products is quite slow, in particular, industrial arts, folk crafts and food production.

During the period of socio-economic transformations (1991-2020), traditional lifestyle in the countryside, the rural labor market and the socio-professional structure of the rural population underwent fundamental changes. The collective farm peasantry ceased to exist as a class, the group of hired agricultural workers gradually disappeared, the number of rural pendulum migrants significantly decreased, the category of workers engaged in industrial activities at their place of residence, as well as rural intelligentsia and workers in the social sphere, also became few in numbers. Due to the limited economic activity in rural areas, the high level of unemployment and poverty of rural households, rural settlements further degraded and lost the ability to self-reproduction, became influenced by demographic and settlement crises.

The current development of entrepreneurship, small and medium-sized businesses within rural areas cannot provide employment for the local population or create new jobs, which would improve the quality of life of the rural population. Its income is 25% lower than that of the population of small towns and 50% smaller than that of people living in large cities. The level of social services provided to the rural population remains rather low.

In addition, the historical, cultural and recreational potential of rural areas, i.e. in the field of green tourism, is insufficiently used. This situation is conditioned by the lack of information, low quality and range of tourist services, as well as no modern recreation industry in rural areas. The existing potential of protected and ecologically clean territories that are appealing from the tourist and recreational perspective is not fully used.

The above-mentioned problems should be solved through the extensive use of national experience and the world practice of creating cooperatives.

However, special literature does not provide scientifically grounded methodological approaches to assessing the effectiveness of legal support for agricultural cooperation in the context of modern economic modernization and the development of rural areas. The theoretical and methodological foundations of information support for entrepreneurial activity have not been sufficiently developed.

To manage business processes in some region, it is necessary to study and develop effective tools to stimulate entrepreneurship, lay theoretical and methodological foundations for economic modernization (Moroz 2008).

It is worth mentioning that the Republic of Kazakhstan has not studied any legal issues of agricultural cooperation with due regard to the principles of cooperation recognized and tested by developed economies. In addition, the country has not developed new laws and rules for their application in the field under study. The Kazakh special literature does not contain scientifically grounded methodological approaches.

These facts prove that the problems of agricultural cooperation connected with the development of rural areas require close attention from legal science. The latter should comprehend the role of state and law in the process of forming a conceptually new land reform and a model of cooperation in rural areas and offer effective legal tools for their implementation in modern conditions.

This circumstance requires an optimal ratio between constitutional and industry-specific regulation of legal mechanisms that ensure the effective implementation of these relations. In turn, it necessitates both the need to analyze the current regulatory acts and develop theoretical models for their possible improvement.

The research hypothesis is that the formation of a multi-level system of agricultural cooperative societies, functioning in collaboration with state (local) authorities, contributes to the development of rural areas.

1. Methods

The research methods included the analysis of the legal regulation of agricultural cooperation in the Republic of Kazakhstan and foreign countries, as well as the analysis of scientific literature on the development of rural areas.

The systemic-integrated holistic approach allowed us to determine and substantiate the key measures for the development of agricultural cooperation and rural areas in the Republic of Kazakhstan.

2. Results

The International Co-operative Alliance defines a co-operative as an "autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise". This definition was first introduced in the ICA Statement on Cooperative Identity (1995) and was later recognized by the following international documents: the United Nations Guidelines (2001) aimed at creating an enabling environment for the development of cooperatives (Hagen 2012, 405).

In 2014, the Organization for Economic Co-operation and Development made recommendations for the further development of agricultural cooperation in the Republic of Kazakhstan. They covered three main aspects. The first is to improve the legal framework under consideration. Until 2016, there had been two forms of agricultural cooperatives in the Republic of Kazakhstan: agricultural production cooperatives and rural consumer cooperatives. The activity of agricultural production cooperatives was regulated by the Law of the Republic of Kazakhstan of October 5, 1995 "On production cooperatives" (Zakon Respubliki Kazakhstan 1995). In relation to agriculture, the following features of an agricultural production cooperative can be distinguished. Firstly, the main direction of its activity is the production of agricultural products. Secondly, it is created only by individuals (at least, two persons). Thirdly, an individual should pay a property share (contribution) to enter an agricultural cooperative. Fourthly, a cooperative member has to physically participate in its activities. Unlike agricultural production cooperatives, rural consumer cooperatives are non-profit organizations. Their activity was regulated by the following laws: the Law of the Republic of Kazakhstan of July 21, 1999 "On rural consumer cooperation in the Republic of Kazakhstan"; the Law of the Republic of Kazakhstan of December 25, 2000 "On agricultural partnerships and their associations (unions)"; the Law of the Republic of Kazakhstan of April 8, 2003 "On rural consumer cooperatives of water users" (Zakon Respubliki Kazakhstan 1999).

Since 2015, the Republic of Kazakhstan has undergone reforms in the field of agricultural cooperation, including in the legislative sphere. First of all, it is the adoption of the Law of the Republic of Kazakhstan of October 29, 2015 "On agricultural cooperatives" (Zakon Respubliki Kazakhstan 2015); the cancellation of the previous laws on cooperatives; the legislative consolidation of tax benefits; the simplification of registration procedures – these are the consequences of legal reforms in the field of agricultural cooperation. According to statistics, a total of 2,872 agricultural cooperatives and 62,825 of their members were registered in the Republic of Kazakhstan as of June 30, 2018. The extent to which farmers are involved in cooperative enterprises is limited: the number of cooperative members divided by the total number of farms was only 3.4%. The low level of cooperative development is also common to some countries with formerly planned economies, including Romania (0.3%), Georgia (1.3%) and the Czech Republic (3.5%) (OECD 2019). The second direction in reforming agricultural cooperation in the Republic of Kazakhstan is to improve information and educational services, including the state register and the system of statistical monitoring. The third aspect is financial support. According to the OECD analysts, this measure is ineffective and does not stimulate the cooperative movement in the Republic of Kazakhstan. Between 2009 and 2011, the state support for agriculture in the Republic of Kazakhstan reached 200 billion tenge (1.36 billion US dollars) on average, which amounted to 11% of the value of agricultural products and was below the average level of the OECD countries. Moreover, 82% of this amount was comprised of trade-distorting measures tied to prices and production volumes (OECD 2013). "The financial support is not accurate: about 60% of the newly registered cooperatives are inactive or "fictitious" organized to receive state subsidies" (OECD 2019).

While studying the Kazakh legislation in the field of agricultural cooperation, we revealed that the Republic of Kazakhstan is taking steps towards the implementation of internationally recognized principles of cooperation. The definition of an agricultural cooperative developed by the Kazakh legislators tries to embrace not only the

concept of "agricultural activity" (i.e. the production, processing, storage and marketing of agricultural products) but also the production of aquaculture (fish farming) products and the supply of production means and material-technical resources, lending and credit, water supply or other servicing of cooperative members, as well as associate members of such cooperatives. One more typical feature is the optional labor participation of cooperative members in its activities, which raises many questions. For example, why agricultural consumer cooperatives are different from other forms of commercial entities? According to the old legislation, only physical persons (currently, also legal entities) could act as cooperative members. In Azerbaijan, at least 70% of all work in production cooperatives should be performed by their members. Production cooperatives can involve employees in their activities. The number of such workers (except for the seasonal labor force) should not exceed 30% of the total number of cooperative members. Workers of production cooperatives cannot simultaneously work in another production cooperative involved in the same type of activity (Zakon Azerbaidzhanskoi Respubliki 2016).

3. Discussion

The current model of agricultural cooperatives originated in Europe and was adopted by other states as a method of mutual assistance and confronting the extreme conditions of poverty at the end of the 19th century (Hoyt 1989, 81). The greatest impact on the functioning of agricultural cooperatives was made by the formation of the Rochdale Society of Equitable Pioneers in 1844. It was a consumer cooperative founded in Rochdale (England) by a group of workers from various professions. They developed a set of basic rules based on a two-year study of cooperatives, including ineffective ones. Back then, cooperatives aimed at satisfying the needs of its members for better housing, employment, food, education and other social needs. Another important event in relation to cooperatives acting as banking institutions was the creation of the first savings and loans of cooperatives by Friedrich Wilhelm Raiffeisen in Germany in 1864. Raiffeisen Bank should provide savings and credit services in urban and rural areas based on the idea of "self-help" (Ingalsbe and Groves 1989, 106). The development of cooperatives was driven by many factors and effects. Ingalsbe and Groves (1989) classified three main types (interrelated):

- (1) Economic conditions (caused by war, crisis, technology, state economic policy, etc.);
- (2) Farmer organizations (including the professional level of their leaders, their motivation and enthusiasm for promoting cooperatives, influencing public policy, etc.);
- (3) Public policy (in accordance with state interests, legislative initiative and judicial interpretation).

Since 1988, the organization of agricultural cooperatives in the United States has gone through two stages: (1) the restructuring and consolidation of common cooperatives and (2) the formation of new generation cooperatives. New generation cooperatives retain many features of the traditional ones but focus on added value. Capital member contributions are related to the delivery of goods (marketing rights) that obtain value and can be transferred, while their membership can be terminated or limited.

R. Cropp (1989) claimed, "Cooperatives in the United States have matured to become a significant force in agriculture and play an increasing role in influencing national agricultural policies".

It should be noted that the legal regulation of cooperation in the post-Soviet countries has advanced and effective solutions which should be adopted by the Kazakh legislators. We believe that the Republic of Kazakhstan can benefit from the experience of Georgia since its legislation considers the recommendations of the Ministry for Agriculture and the specifics of agricultural activity as the main task of agricultural cooperatives. According to the Law "On agricultural cooperatives", an agricultural cooperative is a legal entity organized under private law and legally established as a cooperative according to the Law of Georgia on Entrepreneurs, which carries out agricultural activity and which has been given the status of an agricultural cooperative under this Law (Zakon Gruzii 2013).

This definition implies the following features of an agricultural cooperative: firstly, it is a legal entity of private law; secondly, its main type of activity is agricultural activity. The Georgian legislators emphasized that it is any economic activity carried out on agricultural land or in relation to property associated with land, as well as related services, including the production, processing, packaging, storage, transportation and sale of plant and animal products (birds, fish, silkworms, bees, etc.). According to analysts, "Georgia is the only post-Soviet country that has established a special procedure for obtaining the status of an agricultural cooperative. Being a private enterprise, an agricultural cooperative should submit an application to a legal entity of public law, i.e. the Agriculture Cooperatives Development Agency. This agency is authorized to monitor the activities of a legal entity that has the status of an agricultural cooperative. The monitoring results will serve as the basis for suspending or withdrawing the status of an agricultural cooperative as a legal entity" (Teres *et al.* n.d).

Another feature of agricultural cooperatives in Georgia is the labor participation of cooperative members. For example, Article 60 of the Law "On entrepreneurs" states that "a cooperative shall be a company based on the labor activity of its members or established for developing the business and increasing the income of the members. The objective of a cooperative shall be the satisfaction of the interests of the members. A cooperative shall not aim primarily at gaining profit". Clause 2 "g", Article 1509 of the Civil Code of Georgia recognizes cooperatives as "legal entities of private law". Respectively, its norms and other laws regulating the legal status of such persons apply to cooperatives (Teres *et al.* n.d).

Summing up the research, we reached the following conclusions.

The main constraining factors for the development of cooperatives and rural areas in the Republic of Kazakhstan are as follows: a non-perfect mechanism to bring farmers under the umbrella of agricultural cooperatives; no coordinating bodies for managing the development of cooperation on the state level and locally in the form of associations (unions) of agricultural cooperatives at the district, regional and local levels which protect their interests, monitor the activities of agricultural cooperatives in compliance with the basic principles of cooperation in financial activities, distribute income between cooperative members, account, register, etc.; the high distrust of agricultural producers, especially smaller farms, of the newly created structures and the fear of losing the main means of production (land); the low level of legal culture in the countryside, the lack of farmers' awareness about the advantages of agricultural cooperatives.

To develop agricultural cooperation and rural areas in the Republic of Kazakhstan, it is recommended to implement certain measures in the following main areas:

1. To improve the legal support of entrepreneurial activity in the field of agricultural cooperation;
2. To introduce and use economic tools to encourage the activities of agricultural cooperatives;
3. To provide organizational, information and consulting support for agricultural cooperatives with the participation of organizations that form the infrastructure for supporting business entities;
4. To undertake measures aimed at education, training and retraining of personnel;
5. To assist subjects of agricultural cooperatives in the sale of products;
6. To develop a mechanism to protect the rights and legitimate interests of agricultural cooperatives.

One of the strategies for developing agricultural cooperation and rural areas in the Republic of Kazakhstan is the formation of a system of state financial and credit support for agricultural cooperatives. The implementation of this strategy is confirmed by a new State Program for the Development of the Agro-Industrial Complex of the Republic of Kazakhstan for 2017-2021, whose main task is to involve small and medium-sized farms in agricultural cooperation. However, the experience of foreign countries demonstrates that economic tools for supporting agricultural cooperatives should be updated annually since income in the agricultural sector directly depends on natural conditions. Therefore, it is necessary to develop comprehensive, objective and modern tools for the development of agricultural cooperatives and rural areas.

One more factor for the effective development of agricultural cooperation and improvement of rural areas is the provision of information and consulting services. To provide information and consulting services and provide scientific support of agricultural cooperatives, we developed a two-level model of information and consulting services for the development of cooperation. A top-level element can be the Republican educational and methodological center for developing small forms of farming in the agro-industrial complex and agricultural cooperation, responsible for the content, methodological support and development strategy of the entire cooperative system.

For the effective development of agricultural cooperation in rural areas, it is necessary to constantly train cooperative personnel and improve their skills.

For these purposes, the state provides non-financial support measures, in particular:

- The development of educational and methodological materials for agricultural educational institutions that prepare managers and specialists of cooperatives and centers for their advanced training;
- The introduction of the course on economics and organization of agricultural cooperatives in agricultural universities and colleges as a compulsory discipline;
- The inclusion of owners of private subsidiary plots and peasant farms in information support programs for the agro-industrial complex on a gratuitous basis as attendees of courses and seminars on advanced training and advanced training of leaders and specialists of agricultural formations, central and local executive bodies on agricultural cooperation through a system of advanced training at agricultural education institutions, general universities and educational centers.

The creation of a unified system of agricultural cooperatives and their further unification into unions (associations) at various levels of management are among the main tasks of the Strategy for the Development of

Agricultural Cooperatives. This document is a set of cooperatives of various types and levels, involved in organizational, legal and functional relations, united at the state, regional and district levels.

It is recommended to gradually form a multi-level system of agricultural cooperatives, functioning in collaboration with state (local) authorities, through the formation of a Coordination Council and working groups of consultants. These bodies will manage forms of agricultural cooperation at the district level and control their interaction with financial, public and other organizations.

The main tasks of the District Coordination Council are as follows:

- To form a strategy for creating a system of agricultural cooperatives;
- To develop regulatory acts on the creation of a system of agricultural cooperatives and submit them for approval to legislative and executive bodies;
- To organize informational work at the district level, training workshops for coordination councils, working groups, specialists of agricultural cooperatives;
- To consult working groups on the creation of a system of agricultural cooperatives and participation in the main activities to create such a system;
- To ensure the interaction and coordination of working groups;
- To generalize and share experience in creating a system of agricultural cooperatives.

Conclusion

To develop agricultural cooperation and rural areas as a whole in the Republic of Kazakhstan, it is recommended to implement the following measures: to improve the legal support of entrepreneurship in the field of agricultural cooperation; to introduce and use economic tools to encourage the activities of agricultural cooperative societies; to provide organizational, information and consulting support; to contribute to the training and retraining of personnel; to assist agricultural cooperatives in the sale of their products; to develop a mechanism to protect the rights and legitimate interests of agricultural cooperative societies.

At the same time, a unified system of agricultural cooperation for the development of rural areas should become one of the main strategies for improving agricultural cooperative societies.

Thus, we confirmed that the formation of a multi-level system of agricultural cooperative societies, functioning in collaboration with state (local) authorities, contributes to the development of rural areas.

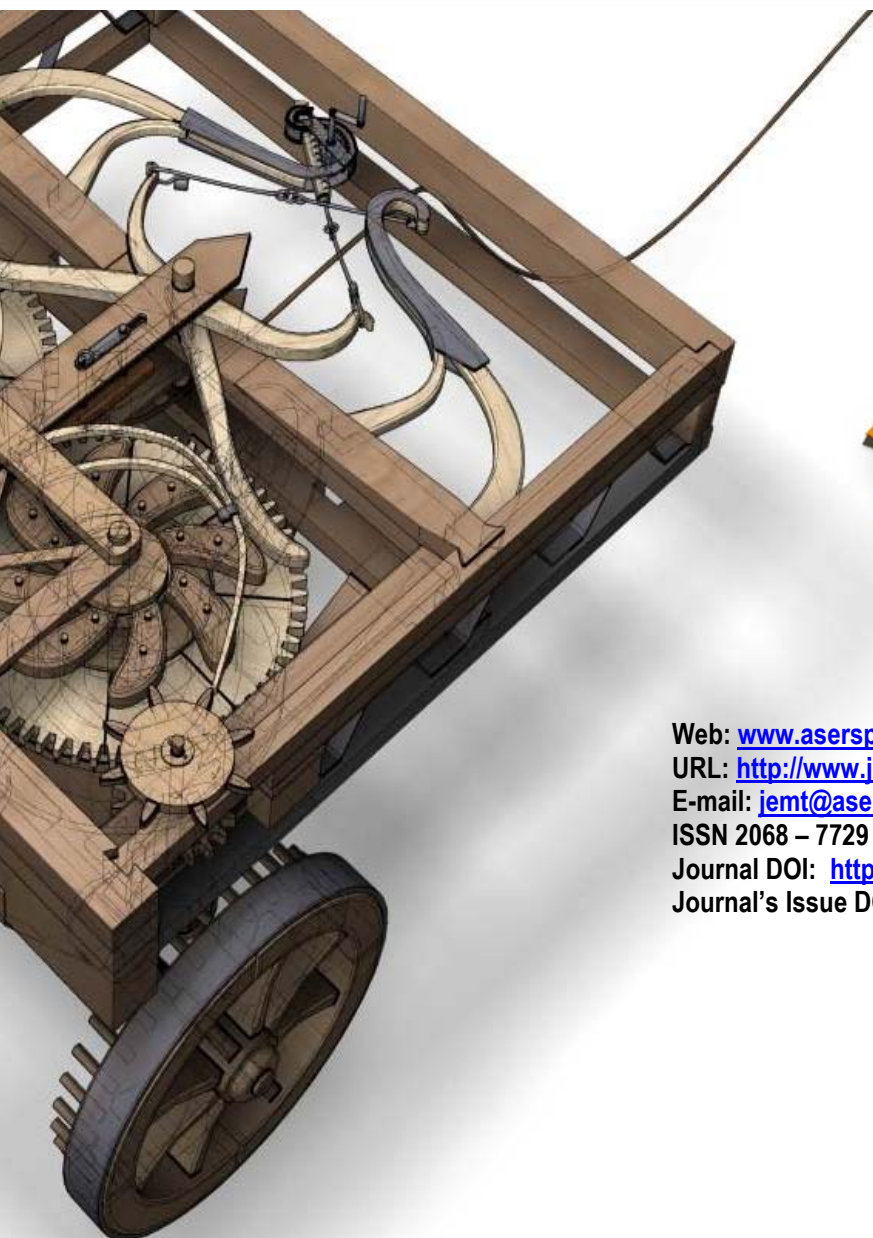
The study can result in the development of a model for the phased formation of a multi-level system of agricultural cooperatives by forming the Coordination Council and working groups of consultants deciding on the organization of agricultural cooperation forms at the level of a specific rural area.

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