



Journal Website:
<https://theusajournals.com/index.php/ijlc>

Copyright: Original content from this work may be used under the terms of the creative commons attributes 4.0 licence.

SOME ISSUES OF THE CONCEPT OF PUBLIC SERVICES IN UZBEKISTAN AND KAZAKHSTAN: COMPARATIVE LEGAL ANALYSIS

Submission Date: November 11, 2024, Accepted Date: November 16, 2024,

Published Date: November 21, 2024

Crossref doi: <https://doi.org/10.37547/ijlc/Volume04Issue11-07>

Sadibekova Moldir Seilkhanovna

Senior lecturer of the Department, State legal disciplines, The Faculty of Law of the M.Auezov South Kazakhstan University, Shymkent, Kazakhstan, Uzbekistan

ABSTRACT

This article examines the concepts and characteristics of public services in the Republics of Kazakhstan and Uzbekistan, based on scientific doctrine and national legislation. It explores the historical development of the term “public services,” analyzing not only the public service concepts in Kazakhstan and Uzbekistan but also in other developed countries, with reference to scientific works from the CIS and abroad. The concept of public services is linked to the idea of the “service state”. The author seeks to define public services as the interactions between state bodies and private (public) entities aimed at meeting the needs of citizens and organizations in the exercise of their rights and legitimate interests, grounded in the scientific doctrine of foreign scholars. These services are argued to encompass a wide range of activities, such as issuing licenses, registering legal entities, providing social benefits, and other government-provided services. Additionally, the article analyzes the concept of public services in the legal frameworks of both countries, highlighting their similarities and deficiencies.

KEYWORDS

State services, the concept of public services, public services, service state, state function.

INTRODUCTION

With the development of digital information technologies, the state-society-individual relationship is increasingly taking on a new format. As early as 2004,

the legal foundation for “e-government” in the Republic of Kazakhstan was established by Presidential Decree No. 1471 of November 10, 2004, “On the State

Program for the Formation of “Electronic Government” in the Republic of Kazakhstan for 2005-2007”. The digital technology era in Kazakhstan is further tied to the President of Kazakhstan N.A.Nazarboev’s Program (May 20, 2015), “Plan of the Nation – 100 Concrete Steps to Implement Five Institutional Reforms” One of these steps was the establishment of the “Government for Citizens” non-profit joint-stock corporation, intended to become a unified provider of government services by integrating all population service centers into a single system, allowing citizens of the Republic of Kazakhstan to access all government services in one location efficiently .

In recent years, the Republic of Uzbekistan has adopted significant legislative and regulatory acts, including the Law of the Republic of Uzbekistan “On E-Government” N-395 (dated December 9, 2015), the Resolution of the President of the Republic of Uzbekistan “On Measures for the Widespread Implementation of the Digital Economy and E-Government” N-4699 (dated April 28, 2020), and the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan “On Measures for Organizing the Activities of Certain Organizations within the Ministry for the Development of Information Technologies and Communications of the Republic of Uzbekistan” N-409 (dated June 25, 2020) among others .

Public services play a pivotal role in the functioning of a modern state, ensuring citizens' access to essential resources and services. With the shift towards the concept of a “service state” the focus moves from bureaucratic processes to meeting the needs of citizens. This article explores the historical development of public services and the concept of the service state, drawing on academic research and scholarly works in this field.

The history of public services dates back to ancient times when governmental institutions began providing basic services to the population. However, significant advancements in the public service system occurred in the 19th century, when states began to actively intervene in the economy and social sphere.

A service state is a model focused on providing high-quality services to citizens. This model emphasizes the efficiency, transparency, and accessibility of services. Scholarly research, such as the work of P. Drucker, highlights the importance of management in the field of public services and the need for state structures to adapt to the needs of society.

Modern approaches to the service state are based on the principles of the “state as a service” model, emphasizing the impact of technology on the provision of public services and the interaction between the state and citizens. According to K. Habermas’ research, the concept of the “public sphere” emerged during this period, wherein citizens began to discuss issues concerning public services. Numerous academic works connect the notion of a “service state” with public services.

In recent decades, many countries have adopted the concept of a service state. For example, Estonia is renowned for its digital transformation of public services. T. Tunberg’s research views this case as an example of the successful application of technology to improve citizens' quality of life.

Today, many authors support the service state concept, under which the state assumes the responsibility of fulfilling social needs by providing public services to the population. Generally, the “service state” concept, developed by German jurist E. Forsthoff in the early 20th century, suggests that the state should not merely “provide” but deliver public

services to members of society. He also asserted that these services should be primary and optional, emphasizing that meeting the individual's needs and life activity should be the sole purpose of the state.

Turning to the concept of public and state services, foreign authors point out various characteristics of state (public) services. According to Léon Duguit, "persons holding authoritative powers do not have subjective rights to state power but must use their powers to organize the provision of public services and oversee their delivery". This perspective is accurate, though the author overlooks the service recipients, i.e., the beneficiaries.

Paul Groute describes public services as a set of services provided to groups of people with active state participation in their provision, funding, and regulation, especially when the market cannot independently supply such services. The author believes that as the state and society develop, the market may fail to provide public services, necessitating the involvement of private entities.

Some authors associate the concept of public services with public powers. According to their interpretation, this activity is inherent, organized, and carried out in accordance with legislative provisions aimed at consistently and universally meeting particular needs connected to public interests for individuals, society (and its social groups), and organizations. This classic interpretation of public services equates them with the functions of public authority.

According to I. Rudenko, state services are activities performed by executive bodies and state extra-budgetary funds at the request of applicants to confer benefits within the framework of established legal norms. This definition can be seen as standard, although it implies a focus on state transformations'

benefits. The drawback of this definition is that not all state transformations aim to generate profit through state services, particularly in light of the development of states under the "service state" concept.

In conclusion, based on foreign academic doctrine, state services can be defined as interactions between state bodies and private (public) entities aimed at meeting the needs of citizens and organizations in the exercise of their rights and legitimate interests. These services may include a wide range of activities, such as issuing licenses, registering legal entities, social benefits, and other government-provided services.

In Kazakhstan, the concept of state services is actively developing within the "state for citizens" framework. The focus is on accessibility, quality, and transparency, reflecting the commitment to modernizing public administration. Uzbekistan is also paying significant attention to reforming the state service system, with an emphasis on digitalization and procedural simplification. A key aspect is creating conditions to improve citizen service quality and implementing the principles of openness and accountability in state bodies.

Thus, in both countries, state services are seen as crucial tools for enhancing citizens' quality of life and improving state-society interaction. Since its independence in 1991, Kazakhstan has actively worked on improving state service quality. In a rapidly changing world, modernization and digitalization of state processes have become primary government objectives.

One notable trend in developing state services in Kazakhstan is digitalization. The "Digital Kazakhstan" program, launched in 2017, aims to create an effective and accessible digital infrastructure. Under this

program, various electronic services have been developed, such as:

- The eGov.kz portal – a unified resource for obtaining government services electronically.
- The eGov Mobile application, enabling citizens to receive services via smartphones.

According to the Ministry of Digital Development, Innovations, and Aerospace Industry of Kazakhstan, the national registry currently includes 1,353 state services (887 in Uzbekistan), and over 90% (75% in Uzbekistan, with 672 services available on my.gov.uz) of these services are now offered in electronic format, with more than 330 services (37%) accessible through state service centers.

Article 1 of the Kazakhstan Law “On State Services” defines “state service” as a form of executing specific state functions or their combination, conducted with or without an applicant's request, aimed at fulfilling their rights, freedoms, and legitimate interests and providing relevant material or non-material benefits. This definition underscores that the state, in providing services, performs its legally mandated functions, which may be offered directly or through other forms, . However, the law lacks clear criteria for forms of service provision, which should be specified in legislation as certain state functions cannot be provided in service form.

Another aspect in defining state services under Kazakh law is that services may be provided “without an applicant's request” raising questions in certain contexts. The concept of a service typically implies an applicant’s request. Thus, in our view, providing state services without a request from the recipient is illogical. It would be more accurate for the law to clarify that “without an applicant’s request” should be

interpreted as requests made through information technology.

In Uzbekistan, the legal foundation for electronic state services was established in 2015 with the adoption of the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan “On measures to further improve the procedure for the provision of state services and interdepartmental information interaction of state bodies and other organizations” dated May 13, 2015, No. 120, in accordance with the President's Resolution No. PP-2293 of February 4, 2015, “On the organization of the activities of the Ministry for the Development of Information Technologies and Communications of the Republic of Uzbekistan”. This regulatory act first introduced the concept of “state services”. According to Clause 2, Section 1 of the Regulation, “state service is a service provided by state bodies for the implementation of their functions, conducted upon applicants' requests”.

The above definition of state service does not differ significantly from many definitions established in the legislative space of CIS countries. However, this definition refers to the functions of state bodies, which, in our opinion, do not fully align with the essence of service provision, as not all state functions can be rendered as state services. Additionally, while the definition omits the concept of public services, it compensates by allowing other organizations to provide state services if they are authorized by legislation.

CONCLUSION

In summary, the issue of defining state services is regulated by the legislation of both countries. Yet, with the development of the state and society, the concept of public services becomes more prominent. Under the “service state” concept, states increasingly delegate

certain powers to private entities, transforming them into public entities. The legislation of both countries does not define public services, their criteria, or the legal status of public entities, which significantly affects the understanding of public services.

REFERENCES

1. Nation's Plan – 100 Steps for Implementing Five Institutional Reforms. assembly.kz – Assembly of the People of Kazakhstan. URL: <https://assembly.kz/ru/prochee/plan-natsii-100-shagov-po-realizatsii-pyati-institutsionalnykh-reform>.
2. President Sh. Mirziyoyev's speech at the video conference meeting on the implementation of digital economy and e-government in sectors and regions (September 22, 2020). Source: <https://yuz.uz/ru/news/tsifrovoy-uzbekistan-2030-osnovne-polojeniya-i-perspektiv-realizatsii>
3. Drucker, P. "The Practice of Management", 1954
4. Government as a Service Castells, M. "The Rise of the Network Society", 1996
5. Habermas, J. "The Structural Transformation of the Public Sphere", 1962
6. Kozhenko Yana Vasilevna, Mamychiev Alexey Yurievich. The Service State: Issues of Theory and Practice of Implementation // Power. 2010. No. 3. URL: <https://cyberleninka.ru/article/n/servisnoe-gosudarstvo-problemy-teorii-i-praktiki-realizatsii> (06.11.2024); Vasileva A.F. The Service State: An Administrative and Legal Study of the Provision of Public Services in Germany and Russia. – Moscow, RAP, 2012. – 332 pages
7. Tönnies, F. "Community and Society", 1887
8. E.Forsthoff Rechtstfragen der leistenden Verwaltung. S.35.; I.N. Barcits. The Concept of "Public Service" in the Context of Federal Law No. 210-FZ "On the Organization of the Provision of State and Municipal Services" and Beyond. // State and Law, 2013, No. 10, pp. 40–51.; Vasileva, Anna Fedotovna. The Service State: An Administrative and Legal Study of the Provision of Public Services in Germany and Russia: Monograph. 1. Moscow: Russian Academy of Justice, 2012. 332 pages.. URL: <https://znanium.com/catalog/document?id=224008>. ISBN 978-5-93916-332-3. и др.
9. Duguit L. Les transformations du droit public. – Paris: Librairie Armand Colin, 1921. – P. xviii.
10. Grout P. A. Private delivery of public services / The Centre for Market and Public Organisation/ – URL: <http://www.bristol.ac.uk/compo/publications/publicservices/ppfinal.pdf>
11. Ponkin, I.V. (2014). The Concept of Public Services. Bulletin of Omsk University. Series "Law," (1 (38)), 134-138.
12. Rudenko Ilya Alekseevich. The Concept and Essence of State Service // Industry: Economics, Management, Technology. 2014. No. 3 (52). URL: <https://cyberleninka.ru/article/n/ponyatie-i-suschnost-gosudarstvennoy-uslugi> (accessed: 05.11.2024).
13. Law of the Republic of Kazakhstan "On State Services" dated April 15, 2013, No. 88-V. / <https://adilet.zan.kz/rus/docs/Z1300000088>
14. Law of the Republic of Kazakhstan "On State Services" dated April 15, 2013, No. 88-V. / <https://adilet.zan.kz/rus/docs/Z1300000088>
15. Melnik Roman Sergeevich (2021). STATE SERVICES AND ADMINISTRATIVE ACT: THE APC OF THE REPUBLIC OF KAZAKHSTAN AND ITS IMPACT ON THE STATE SERVICES SECTOR. Bulletin of the Institute of Legislation and Legal Information of the Republic of Kazakhstan, (2 (65)), p. 28.
16. Public Services: Legal Regulation (Russian and Foreign Experience): Collection // Edited by E.V. Gritsenko, N.A. Sheveleva. – Moscow, Wolters Kluwer, 2007. – Pp. 25-26.



17. German Legal Methodology: A Textbook / E. Sokolov, S. Rosner, R. Melnik. – Kherson: Helvetika Publishing House, 2020. – 126 pages.



OSCAR
PUBLISHING SERVICES