

UDC 327.8: 323 (575.2)

<sup>1</sup>\*Dzhangabulova A.K., <sup>2</sup>Thomas R. Kline, <sup>1</sup>Erezhepkyzy R., <sup>1</sup>Baideldynov D.L., <sup>1</sup>Alimzhanova M.G.

<sup>1</sup>Faculty of law, Al-Farabi Kazakh national university, Almaty, Kazakhstan

<sup>2</sup>School of Law, Drexel university, Philadelphia, USA

\*E-mail: Arailym2205@gmail.com

### **Non-governmental organization in the Republic of Kazakhstan: their role in energy policy formation**

**Abstract.** The status and direction of development of the NGO sector in the Republic of Kazakhstan and its role in the development of a democratic society are discussed in the article. The last decade of the 20th century clearly shows that NGOs have been considered by donors as a core of civil society, which implements social projects and invests the development of democracy are key figures of democratization of the society.

The relevance and importance of the non-governmental organizations roles in both policy of individual states and internationally are noted. The interaction of the non-governmental sector and the state, the effect of this interaction on the development of society are considered. The paper notes the lack of interaction of the state bodies and non-governmental organizations in the implementation of the energy security. Possible ways of activities and mechanism of participation of the non-governmental organizations in control of production and transportation of energy, including, the recommendations development to increase the manufacturers' responsibility for environmental pollution, the establishment a mechanism for independent monitoring compliance of environmental legislation are offered.

**Key words:** non-governmental sector, non-governmental organizations, the environment, the state.

#### **Introduction**

The whole civilized world for a long time follows the principle that a strong civil society there where the strong non-governmental sector. The society is defined an important role not only in development of the state but also the world community as a whole, especially during the integration. In the modern sense the society seems not only as "the internal and external environment of a company or project," but also as "united any two citizens of a democratic country to express any ideas or positions" [1]. As international experience shows, the establishment of transparent and effective working relations between the state and the public sector is beneficial for both sides. The state financially stimulates incomes to the desired sector of social services of professional non-governmental organizations. It should be recalled that in the 21<sup>st</sup> century a special feature of the political world is global information warfare. The geopolitical position of the state in the international arena, the degree of its influence on the world events depend not only on the economic

and military power. The information factor become more and more important: the ability to effectively influence on the intellectual capacity of the other countries, to disseminate and implement the certain spiritual and ideological values on the population, transform and undermine the traditional foundations of nations and peoples. Many Western experts, representing the interests of transnational corporations believe that the NGOs are the main drivers of globalization [2].

Non-governmental organizations (hereinafter NGOs) in Kazakhstan organized and worked since the Soviet times, but actively began to develop with the advent of perestroika, after independence and the development of democratic processes. During this time, NGOs were on the path of quantitative growth, when the quality growth is still developing. The NGOs cover the broad spectrum of the social sphere. According to the official formal figure the number of non-governmental organizations is 27 thousand, when 18 000 of NGOs are indicated by other sources where 10 thousand are active across the country. It should be

noted that the data about the number of NGOs vary depending on the sources and different reasons. Here, some of them are the state statistics of the structure on the third sector includes all organizations are listed by the legislation, when other individual independent research agencies are excluded from the third sector: the government agencies, advocates association, consumer cooperatives, Notary Chambers and etc., which are recorded by official statistics. Another cause of calculation distortion is that the NGOs function only formally on paper. Thus, as a result there exist inadequate statistical non-governmental organizations. However, today, stable groups of non-governmental organizations in various areas are formed.

5 regions can be distinguished in Kazakhstan, where the non-governmental organizations network is active: Astana and Almaty, Aktobe, Zhambyl and South Kazakhstan regions. [3] Among the NGOs operating acknowledged leaders, whose names are constantly on the ear, there are small organizations, created by enthusiasts or just desperate people who have decided to solve their problems. One of the main purposes of such organizations is to draw public attention to the problems of society, filling the so-called “niche” in the socio-economic development of the country, which became outside of the purview of government agencies. NGOs are an integral part of modern society and represent an important element of civil society as a whole. It is impossible to overlook the fact that some of the NGOs claim to the role of judges in matters of ideology of the whole society and public policy. In the scientific literature are functioning the term “pseudo-NGOs” which refer organizations, activities of which are outside the scope of public and social life: the latter often become the tools of both domestic and foreign policy of certain political forces and countries [4].

#### **Methods**

The method of comparative analysis to analyze the tendencies of development of the non-governmental sector in the Republic of Kazakhstan are used during the research. Compared the scientific and practical approaches, using in the development of the non-governmental sector. The research methodology included a review and analysis of the literature of the development of non-governmental organizations history, statistics analysis and normative documents, the study of scientific papers and reports of experts about the subjects of the study.

#### **Main body**

It should be noted that the human rights movement in the Kazakhstan the environmental problem of

human and civil rights are not traditionally regarded as a significant and substantial. And this is at a time when the consequences of violations of the human rights and the citizen in the environmental field are so significant. It is worth mentioning that as a result of pollution tens of thousands of people are killed each year in the RK, and more lose their health. One of the priority areas of the non-governmental organizations is the environment, including the energy sector. In the field of environmental protection the activities of non-governmental organizations play a significant role.

According to the Agenda for the XXI Century the Non-governmental organizations play a key role in the formation and implementation of democratic structures based on participation. Their authority explained by responsible and constructive role which they play in society. Today, when the world community seeks to move away from unsustainable patterns of development and to embark on an environmentally secure and sustainable development, one of the major challenges ahead is to promote understanding of common purpose at all levels of society. The possibility to provide an understanding of this objective will depend on the willingness of the society to participate in a broad cooperation and dialogue and the recognition of an independent role, obligations and special capacities of each. Non-governmental organizations also need to develop collaboration and cooperation between themselves in order to increase their effectiveness as participants of the sustainable development activities [5].

The variety and diversity of non-governmental organizations with different goals, mission, organizational structure and motivation make it difficult to define the definition of the “NGO”. The phrase “non-governmental organizations” and the abbreviation “NGO” is not a legal term, but they stuck in practice due to the fact that they are widely used in international organizations’ documents to refer to non-governmental, non-profit organizations. It is important to consider a number of interpretations and variations of the definition of the “non-governmental organizations”.

Наиболее фундаментальным источником, упоминающим неправительственные организации, является Устав Организации Объединенных Наций (далее – «ООН»), а именно, статья 71, официальный русский текст которой гласит:

The most fundamental source of the non-governmental organizations is the United Nations Charter (hereinafter – the «UN»), Article 71, the official Russian text of which reads says:

«The Economic and Social Council authorized to make suitable arrangements for consultations of the non-governmental organizations which are interested in matters within its competence. Such arrangements can be made with international organizations or if it is appropriate with national organizations after consultation with the Member of the Organization».

We note that the UN Charter does not give a definition of non-governmental organizations; it just merely indicates that the definition includes *international* organizations and *national* organizations.

“Any voluntary non-profit alliance of citizens, organized on a local, national or international level can be considered as non-governmental organization” defines in the publications of the Department of Public Information of the UN Secretariat. [6] Thus, the UN defines the NGOs as organizations that were formed on the basis of intergovernmental agreements.

In the Guide of the development and law application, regulating the activities of non-governmental World Bank, the term “NGO” means union, society, foundation, charity, non-profit corporation or other legal entity which in a particular legal system is not considered as a part of the government and does not work for profit, i.e. the earned income is not distributed, and may not be distributed. This term does not apply to trade unions, political parties, cooperatives, profits and churches distribution [7]. The authors note that the choice of the term is due to the convenience of its widespread use of the Bank.

Non-governmental organizations (NGOs) – the organization founded by individuals and / or other civil society (non-profit NGOs) without the participation of the official (governmental) institutions carrying out its activity on the basis of the Charter and at its own expense. NGOs are divided into national and international NGOs (INGOs). INGOs are the international organization which is not founded on the basis of an intergovernmental agreement. The hallmark of INGOs is the recognition it by at least one state or the presence of its consultative status at international intergovernmental organizations. INGOs, as well as other international organizations are characterized by the presence of the constituent instrument, permanent or regular nature of the activity, using as the main method of multilateral negotiations and problems discussion, decision-making by vote or consensus, recommendation, as the nature of the decisions [8].

The law of the Republic of Kazakhstan does not give a definition of “non-governmental

organization”. Figuratively speaking, the state, declaring the intention to deal with the non-governmental organizations, did not specify relation of the «non-governmental» to the other organizations. The search of the “object” went on the dubious path legislative definition of “NGO”, to already enshrine concept of “non-profit organizations” in the legislation of Kazakhstan (with more than ten of their subspecies) organizational and legal forms.

In the national legislation the term of “NGO” in relation of the organizations which are established under the laws of the country itself, substitute more traditional concept of nonprofit (noncommercial, non-profit) organizations, however, it happens very rarely, and should rather be attributed to the terminological incident.

In the “Rules providing information of its activities to non-governmental organizations and the formation of these databases are given” the following concept of the non-governmental organization which is given to the non – profit organization (with the exception of political parties, trade unions and religious organizations), is established by citizens and (or) non-State entities on a base of voluntary in order to achieve their common goals in accordance with the legislation of the Republic of Kazakhstan [9].

So we see that one of the most critical and still unresolved problems that have arisen in the course of development of the concept of the new legislation and specific legislation is the conceptual apparatus, including the term of “non-governmental organization.”

The real basis of the environmental movement began to grow in condition of a developed industrial society crisis in the relation between human society and the surrounding natural environment. Many states have a rich tradition of public participation in the issuing of permits for industrial emissions, in the EIA procedure, the establishment of various plans, programs and specific in the field of projects aimed to protect the environment. Major international forums of the environment and sustainable development made a huge impact on the expansion of the role of the public on environmental decision-making. A major achievement in terms of public participation and NGOs was the United Nations Conference on Environment and Development (UNCED) held in Rio de Janeiro, 1992 where the concept of sustainable development has been recognized by heads of states and governments of the world.

Nowadays, the great importance of the non-governmental non-profit organizations recognized almost everywhere. In the field of environmental

protection, their primary role is to protect the rights of citizens to a healthy environment. To fulfill the role, NGOs can:

- Promote the development and implementation of effective environmental policies;
- Implement the control and monitoring of the environment;
- Fulfill awareness-raising activities among the population;
- Involve the general public in environmental decision-making processes;
- Conduct practical work aimed to improve the environment, human health and the transition to sustainable development.

From the government agencies side is growing the awareness of the necessities to expand cooperation with NGOs. It is recognized that it is the democratic principle, which will allow people to participate in solving the problems affecting their lives. Moreover, from a pragmatic point of view, public participation makes it possible to take into account the different views and take a qualified decision. Extensive consultations with NGOs also allow to prevent conflicts, to ensure public support for the preparation of important state decisions, and later to implement them.

One of the work forms of NGOs is the involvement of the development of plans, programs and policies as the key environmental issues, and in general in the field of environmental protection.

The most effective participation occurs when public authorities initiate public involvement, and do so at a very early stage of the process. However, NGOs can initiate their involvement by themselves.

The key task of NGOs is to achieve guarantees of energy producers and suppliers, government and international organizations for improvement of the safety during production and supplement of energy resources. Production and transport of energy should be socially responsible.

Directions of action:

- To achieve the commitments from the heads of states about the necessities to reduce the environmental risks of energy production and transport;
- To prepare a list of issues producing public concern in the fields of production and transportation of the energy resources;
- To develop a mechanism of the NGOs participation in monitoring the companies in the production and transportation of energy, including, to develop recommendations to improve the responsibility of energy producers for environmental pollution, creation of a mechanism for independent

monitoring the compliance with environmental laws and so on.

- To develop proposals improving the social activity of companies in the energy sector.

In our opinion, to achieve results it is necessary to take the following measures:

- To ensure public participation in the formation of energy policy. Support for the activities of international NGOs working in the field of environmental safety, education, and environmental protection.

- To unite efforts to develop and implement sound technologies for renewable energy;

- To promote ecological and economic values into the modern educational system.

- To develop a strategy for the priority development of renewable energy and energy efficiency.

- To monitor the implementation of programs and activities for the rehabilitation of radiationally-polluted territories;

- To do not permit the transformation of Kazakhstan into the global “dump” of radioactive waste.

- To create economic and legal mechanisms to facilitate the rapid transition of enterprises in energy-saving technologies and ways of working;

- To create economic and legal mechanisms to ensure the most competitive advantages of clean, safe for the environment and people resource saving products;

- To create an international energy strategy aimed to the resources of rational energy use, i.e. increase the alternative (renewable) energy sources, improving energy efficiency, primarily due to the spread of economic tools and technologies, to expand the research in the field of renewable energy and ways to improve their competitiveness. To reduce the environment damage during extraction, transportation, processing and use of traditional energy resources, storage and disposal of waste produced at all stages of their life cycle. Nuclear power cannot be considered an acceptable direction in terms of improving global energy security and create an effective energy, as the radioactive materials is potentially dangerous resource and advanced nuclear technologies carry a burden of unresolved problems to date and have serious limitations.

- To refuse the development of energy industries, fraught with serious negative consequences for nature and people (eg. nuclear power). To create a transparent society mechanisms of accumulation and use of resources for

decommissioning the produced design resource.

– NGOs can play only a relatively minor role in this direction. Ensuring the stability of energy revenues and measures development that decrease the growth of the energy prices which is a priority and obligation of state's activity.

– To create a system of state funds, through which on a competitive basis make a financial support to energy companies at the early stages of development.

Forms of participation of NGOs in the protection of the public interest

Based on foreign experience of NGOs, the following possible areas of civil society activities in the theme of energy security can be offered:

1) Decrease of pollution during production and transport of energy.

The rapid growth of the world economy accompanied by increased demand for energy, consequently, an increase in their production and transportation. Energy production can be accompanied by the application of substantial damage to the environment, the citizens health, including by pollution and flood-prone areas, smog, radioactive contamination, clogging reservoirs, deforestation and so on.

Significant threats bear the transportation of energy resources. Man-made disasters, the risk of which is always present during oil, gas, nuclear fuel transportation could have a significant impact on the ecosystem of entire regions, as well as on the health of citizens, economic sustainability of local communities, apply direct material damage to the population.

In recent years, NGOs in Kazakhstan are playing an increasingly important role in protection the rights of citizens. A number of NGOs are universal, they are engaged in a complex of issues related to human rights, contribute to the legislative process, monitor human rights have need specific help to protect the rights, deal with educational work in the field of human rights, themed seminars and conferences, publish books, encourage international cooperation and etc.

Most aimed to the lofty goals and in reality it seeks to them. The task of the state and society is not to lead the NGOs operating in the country interfere to the development of the state and society as minimum, and contributed as a maximum.

The most important problem in the growth of the NGOs efficiency is a lack of awareness. NGOs themselves often have little knowledge about the work of his colleagues, even within the same region or in the territory of the city. Therefore, they are often

involved in the same issues, which significantly disperse the power and negatively effects on the performance. In this case, the authorities also do not have a complete picture of the NGOs state. Today, NGOs are quite a few, but even group them according to areas of activity is very difficult task. This situation reduces the efficiency of governing, guiding role of the state in the field of NGOs. Finally, the activities of NGO are poorly informed on people, by whom, in fact, they are created. People do not aware that the NGOs can consult and try to solve problems. NGOs and the population exist in parallel worlds, and very rarely intersect. Many do not even know that NGOs receive social order, intended to solve the problems of society. But this budget, and for their efficient use it must be under the same public scrutiny as the formation and expenditure of the budget as a whole.

The paper notes the lack of interaction of state bodies and non-governmental organizations on the NGOs projects implementation. Although the number of government agencies that implement with NGOs projects is increased for almost four time. Our government does everything to develop the civil society, and all raised initiatives be heard by agencies with decision-making powers.

To date in Kazakhstan exist the trend to have the registered NGOs only on paper, while not a large percentage comes on actively operating NGOs. Thus, the most important part of the non-governmental organizations in Kazakhstan exists only on paper. Unconditionally leading environmental organizations is 15% from the total number. They have the most comfortable social and political position. They are the patriots of their country, because they care of its future, they are the humanities, because they care of nature and indirectly for human in it. "Environmentalists" do not interfere anyone, with the exception of their war with some officials who spoil the flora and fauna by their actions. However, it is rather special cases, although they have so many scopes for activity in our country, that it is time to create entire ecological "fronts" and "war" on them with the enthusiasm and energy of the members of the Greenpeace.

### Conclusion

To achieve this goal we need to develop and implement a program of action at the state level, aiming to create a situation in which in principle the NGOs cannot appearance and operate, whose objectives are contrary to the objectives of the society and the state. This program will include a range of measures. The most important measure of

the program should be a major rewrite of legislation regulating the activities of NGOs.

The new legislation must become an insurmountable barrier for the bogus NGOs and absolutely does not affect to the activities of those, who work for the public good. The new legislation should include a number of provisions that will allow “filter out” the bogus NGOs.

The procedure of registration can become the first “filter” for the bogus NGOs may. Already at this stage on the basis of comprehensive information provided by individuals registering NGOs, as well as the results of audits of the information provided, it may be decided to refuse the registration.

The special comprehensive inspections of NGOs can be a second “filter”. The most important question of these checks is the order financing and spending. The commissions of verification activities may include representatives of various ministries and departments in order to simplify the information obtainment in various areas under the responsibility of these structures. In the case of violations, according to the established law of funding and spending, NGO activities should be stopped.

Another item in the program, aimed at protecting the interests of the state and society, can be empowering relevant institutions with the power to halt the activities of NGOs in the case of negative consequences for society and the state. It is advisable to involve the expert community and to develop a clear and understandable criterion to eliminate the abuse of authority by which the activity of the NGO will be considered as a fictitious.

Effective measure in the process of normalization of the NGOs activities in the country could become the event, during which the general public will receive the true goals of the organization, the sources of their funding and the real “masters”.

And the final, but no less important point of the program should be the involvement of civil society to the all stages of the fight against bogus NGOs

and maximum openness and transparency of all procedures.

It should be emphasized that public hearings are just one form of public discussions. It is important to emphasize the significant progress in the legal regulation of public participation in environmental impact assessment. Public interest must be on the base of NGO activities, which are primarily designed to reflect the public interest.

In our point of view, the key global public interest in the topic of «energy security» lies in the following areas:

- Reduction of environmental pollution in the production and transportation of energy;
- Guaranteed compensation in case of man-made disasters during the transport and energy production (environmental pollution, injury, loss of property, etc.);
- Reduction of the corruption in the energy sector;
- Equitable distribution of income from the energy resources and the use of windfall from energy resources for sustainable development of countries and regions;
- Improving the safety of transport and storage of radioactive waste;
- Ensuring the stability of energy income and preservation of acceptable prices.

It should be mentioned that the actual capacity of the NGOs influence on the processes are much lower than the public authorities and business community. Therefore, in some of these NGOs areas can play only a relatively minor role and priority in these areas belong to the state authorities and business community.

In conclusion, it can be concluded that in Kazakhstan the NGOs have not had a clear established image in the eyes of the general public. In general, the public attitude to the activities of NGOs is quite positive, but at the same time controversial, as not all experts have a sufficient information, and because of it there is a certain mistrust.

#### References

1. Kondratiev E.V., Abramov R.N. Public Relation / under total ed. S.D. Reznik. – M.: Academic Project, 2008. – 101 p.
2. Minasyan G.A. Aram Voskanyan A.G. Foreign NGOs – the mechanism of influence on domestic policy in the CIS. Magazine “columnist», № 3, 2013
3. <http://www.kazpravda.kz/news/obshchestvo/400-npo-primut-uchastie-v-vii-grazhdanskom-forume-kazahstana/>
4. John Baylis, Steve Smith, Patricia Owens, “The Globalization of World Politics”, Oxford University Press Inc., New York, 2011, P. 328-331
5. Agenda for the XXI Century “adopted by the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992

6. Smiltneks P. The concept of NGOs in international law, legal theory and law of foreign countries // Volunteer House Soros-Kazakhstan. -may-August 2003. -No 3 -4. -FROM. 9-15.

7. Guidelines for the development and enforcement of laws regulating the activities of civil society organizations. Leon Irish, etc. -. Almaty, «LEM» Publishing, 2006. – 172 S.

8. What is there in world politics: the dictionary catalog / E.V. Ananiev, Batjuk V.I., Braterskiy M.V. (the authors call the hands...) And others;. Nat. issled. Univ “Higher School of Economics.” – M.: Publishing house. Home Higher School of Economics, 2016. – 366 p.

9. Order of the Minister of Culture and Sports of the Republic of Kazakhstan dated February 19, 2016 № 51. Registered in the Ministry of Justice of the Republic of Kazakhstan March 1, 2016 № 13355