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European Science Review

“East West” Association for Advanced Studies

and Higher Education GmbH, Am Gestade 1

1010 Vienna, Austria

## Email:

info@ew-a.org

## Homepage:

www.ew-a.org

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*Baimakhanova Dina Muratovna,  
Al-Farabi Kazakh National University, Kazakhstan, Almaty  
Doctor of law, professor of chair of the theory and history of state and law,  
constitutional and administrative law, law department  
E-mail: dina-405@mail.ru*

*Ospanova Dzhamilya Azizkhanovna,  
Al-Farabi Kazakh National University, Kazakhstan, Almaty  
Candidate of Law Sciences, associate professor of chair  
of the theory and history of state and law, constitutional  
and administrative law, law department  
E-mail: azizkhan-0606@mail.ru*

## **The theoretical aspects of the combination of forms of direct and representative democracy**

**Abstract:** If the basis of classification of forms of democracy to take the way of the will of the population in the course of its participation in the management, then democracy is divided into immediate (direct) and representative. These two forms of democracy are inseparably linked with each other, they complement each other, characterized by constant interaction to the mutual influence. Originating at different times, they then become intertwined in all subsequent historical development. From now on they are inseparable from one another and it is difficult to imagine one without the other.

**Keywords:** Democracy, Constitution of Republic of Kazakhstan, representative democracy, direct democracy, a combination of forms of direct and representative democracy.

In his appeal on the redistribution of powers between branches of government, the President of the Republic of Kazakhstan N. A. Nazarbayev noted that the essence of the proposed reform in a serious redistribution of power and democratization of the political system as a whole [1]. In order to implement the new constitutional provisions important role played by the processes of democratic development, the combination of all its reforms.

If the basis of classification of forms of democracy to take a way of will of the population in the course of his participation in management, then democracy is subdivided into direct (directly) and representative. These two forms of democracy are inseparably linked with each other, they complement each other, characterized by constant interaction to the mutual influence. Originating at different times, they then become indispensable «fellows» of each other in all subsequent historical development. From now on they are inseparable from one another and it is difficult to imagine one without the other.

Representative democracy is the kind of democracy providing participation of the population in management not by its direct declaration of will, and by the declaration of will performed by it through the plenipotentiaries (through system representative authorities, through the President and the vertical of akims headed by it, through the Government and other executive bodies, through legal agencies, etc.). Allocating with the power of the representatives, and directly electing part of them (The president, deputies of Mazhilis and Parliament, deputies of Maslikhat) the population in subsequent is limited to general observation of how they exercise public administration, what efficiency of use of them of the provided prerogatives. On the forward plan bodies, officials, other structures which represent the people are from now on pushed. They really «manage» public administration, determine policy in the field of external relations and in the state, managements resolve general and specific issues, and are engaged in creativity, also law-enforcement



and law-enforcement activities. At the same time the status of representative democracy in the greatest measure finds expression in the organization and activities of representative bodies of the power.

During the modern period providing an optimum ratio of representative and direct democracy — one of key questions of the state and public life of the republic. Its decision allows delivering management on a scientific basis, to avoid unilaterally orientation to «hardware» activities of the state, to materialize political and social activity of people in various institutes of a form. Direct democracy in itself without democracy representative is hardly able to show fully efficiency, effectiveness, also as well as the last will be able to show the potential only in case of a combination to the first. At the same time it is desirable that not only the adjoining (adjacent) institutes of representative direct democracy were more closely combined with each other, but also — whenever possible — remotely institutes remote from each other. In this case the combination purchases multilateral complex nature, will turn into interaction of the called institutes, and their correspondence will become an everyday occurrence.

However communication of these doesn't come down to availability of the components which are general for representative and direct democracy two forms of democracy. It finds expression also that institutes of direct democracy aim to influence as appropriate formation, functioning and development of representative democracy, and the last in turn pays much attention to increase in efficiency of use of direct democracy. Let's stop on some forms of impact of direct democracy on representative bodies:

1. Such form of direct democracy as a referendum, is capable to set parameters of functioning of representative democracy, or to introduce certain amendments, amendments and changes in the existing its institutes. So it happened during the republican referendum which took place on August 30, 1995 on which the new Constitution of the Republic of Kazakhstan was accepted. According to it the former unicameral Supreme Council gave way to two-chamber parliament which status, competence and an order of activities seriously differs from the status, competence and an order of activities of the Supreme Council; besides, instead of system of local

councils with their executive committees other system of local representative and executive bodies — maslikhat and akimat is created.

2. Forming of representative bodies is performed in the way uses of such institute of direct democracy as elections. Different way of forming of representative bodies, for example in the way appointments, puts them in a dependency from those bodies and official persons which appoint them. Therefore the speech shall go about enhancement institute of elections and search of its optimum model providing authentic declaration of will of the population.

3. Direct democracy, in particular its such institutes, as meetings of citizens, reports of deputies before the population, orders of voters to deputies, serves as means of involvement of citizens to activities representative bodies, allows the last to create conditions for implementations of constitutional right of citizens on participation in management public and public affairs. Institutes of direct democracies are used for providing representative bodies' primary information on public opinion and public expectations, and also for development of the state decisions taking into account needs and requirements of the population. The same should be told also about attraction the populations to control of performance of laws and other state decisions, to selection of optimum forms of organizational and managerial activities of representative institutions. In turn deep influence on a condition and functioning of direct democracy render institutes of representative democracy:

1. Representative bodies perform legislative regulation of limits of use of direct democracy, fix and specify the specific list of the questions covered by its institutes, establish the procedure and an order of functioning of each of them. Laws and other regulatory legal acts on meetings of citizens, work with orders of voters, reports of deputies before the population, an order of permission of claims, offers and petitions from citizens, a referendum, elections, etc. are that.

2. Representative bodies are urged to provide material and organizational conditions for successful functioning of institute's direct democracy. For example, during the modern period they care for recovering the fading activity of the population in the solution of questions of management, to use new and to revive some of former forms of direct democ-

racy, to coordinate their action to tasks of overcoming an economic crisis, a country conclusion to a way of forward development, to adjust instructing and methodical ensuring these processes.

3. Within the powers representative bodies exercise control of legality of functioning of institutes of direct democracy, take measures to elimination of violations. Especially often need for it arises when using by separate national groups of the right to meetings, meetings, picketing, street processions and demonstrations. The wide complex of methods of regulation and the solution of these questions is applied (allowing, notifying, etc.).

Means, it is impossible to speak about a superiority of representative unambiguously democracies over direct and vice versa. Usually exceeding direct democracy in one relation, representative democracy can yield to it in other relation. In the same way and direct democracy, being more effective in case of the solution of one question, it is less suitable in relation to other questions requiring use of institutes of representative democracy. Therefore the combination of representative and direct democracy allows compensating shortcomings by one benefit another.

Objective analysis of merits and demerits inherent in institutes representative and direct democracy, allows consciously to take measures to that

a) to some extent to promote approval of conditions for enhancement and expansion of positive sides and advantages of the called institutes,

b) whenever possible to neutralize their shortcomings and negative parties,

c) to compensate lameness of one kind of democracy advantages of other version.

Thanks to such conscious directing impact it is possible to adjust developments of democracy in the desirable party, deriving a benefit maximum from cash opportunities and avoiding many undesirable consequences and results. As the prof. V.F. Kotok fairly noted, "it is necessary to use all the best that forms of representative and direct democracy give,

and as much as possible to reduce shortcomings peculiar to them. It is not about simple improvement of national representation and increase in opportunities of direct participation of masses in public administration, and about synthesis of representative and direct democracy, about connection of benefits which give both of these forms of democracy" [10].

Tracing development of representative system and direct democracy, it is possible to come to a conclusion that specific proportions of a combination of their forms don't remain invariable. On the contrary, they are mobile, dynamic and depending on a situation are exposed to adjustment and modification. For example, during the modern period in connection with huge changes in all spheres of life of society the ratio of institutes of representative and direct democracy became other, than before. It fuller is adapted for conditions of the modern period, considers present mentality of the population, feature of the state system, its priorities and tendencies of development, a form of public relations. But it can't be considered established forever and in the future most likely will undergo to new changes.

However change of proportions of a combination of representative system and direct democracy which happens nowadays or will take place in the future, doesn't shake the idea of their fixed interaction in any way. Such interaction favorably affects a condition and results of functioning both representative system, and direct democracy, enriches them, and allows developing and introducing many parties of their not dissipated potential into circulation.

Thus, reasonable and the most perspective the view of representative and direct democracies as on integrally, the kinds of the same phenomenon which are naturally connected with each other is lawful. They can't be torn off and contrasted each other in any way. During the modern period the main thing consists in rapprochement of their institutes, a combination, the complex, mutually coordinated use of their forms.

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*Ospanova Dzhamilya Azizkhanovna,  
Al-Farabi Kazakh National University, Kazakhstan, Almaty  
Candidate of Law Sciences, associate professor of chair of the theory  
and history of state and law, constitutional and administrative law,  
law department*

*E-mail: azizkhan-0606@mail.ru*

*Baimakhanova Dina Muratovna,  
Al-Farabi Kazakh National University, Kazakhstan, Almaty  
Doctor of law, professor of chair of the theory and history of state and law,  
constitutional and administrative law, law department  
E-mail: dina-405@mail.ru*

## **To a question of development of the administrative legislation in the Republic of Kazakhstan**

**Abstract:** In this article is considered tendencies of development of the modern administrative legislation in the Republic of Kazakhstan. Reforming of the administrative legislation is caused by certain difficulties in practice of law-enforcement activities of the modern period of development as imperfection of the existing administrative legislation generated uncertainty on a number of questions.

**Keywords:** administrative legislation, reform, codification, law-enforcement activity.

Reforming of the administrative legislation is caused by certain difficulties in practice of law-enforcement activities of the modern period of development as imperfection of the existing administrative legislation generated uncertainty on a number of questions. For example, rather legal nature of the sanctions provided in various laws, presidential decrees, the orders of the Government of the Republic of Kazakhstan, and also an order of their application that, eventually, negatively affected protection of the rights and freedoms of the person and citizen, the organizations in the administrative and delictual relations.

Considering the social and economic and political transformations happening in Kazakhstan this period of development where the main idea of activities of state bodies was creation in the Republic of Kazakhstan of the constitutional and democratic state founded on market economy it is necessary to specify that in the Republic of Kazakhstan the attempt of strict implementation of rules that borders of state regulation of the developing administrative and delictual relations shall be determined strictly by a legal framework and the legislation which aim at a problem of the maximum ensuring the principle of a priority of

the rights and freedoms of the person was performed.

In the context of reforming of the administrative and delictual legislation which main regulation the Code of Administrative Offences shall be noticeable lagging in its development was observed that it was connected, first of all, with difficulties of a transition period. At the same time it is necessary to specify that measures of administrative and legal coercion protect not only regulations of the administrative right, but also the regulations relating to other industries of the right. At the same time, characteristic feature of this period was also that in all spheres of the Kazakhstan legislation codification of regulatory legal acts which result was an adoption of new industry codes of the Republic of Kazakhstan was performed: civil, criminal, civil procedural, criminal procedure, criminal and executive, etc.

Adoption of the Code of the Republic of Kazakhstan about administrative offenses of May 14, 2015 became a significant event not only for the administrative and delictual legislation, but for all administrative right of Kazakhstan in general. Eloquently demonstrated the fact of implementation of its second codification which allowed to bring

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