

THE LEGISLATIVE ASPECTS OF THE STATE-PRIVATE PARTNERSHIP IN THE HEALTH CARE SYSTEM OF THE REPUBLIC OF KAZAKHSTAN: PROBLEMS AND PERSPECTIVES OF DEVELOPMENT

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Abstract: *The article focuses on the data about the topicality of the state-private partnership introduction in the health care system of the RK. The SPP mechanism is considered as a topical instrument to provide the necessary financial base and modernization of the social infrastructure objects including medical establishments. Synergy of the state and private business allows increasing quality of the services provided to the population by the optimal ratio «price – quality», providing the infrastructure development, creating additional work [places that in complex has a positive multiplicative effect. The SPP is a mutually beneficial cooperation of the state and private sector in the spheres traditionally referring to the state responsibility on conditions of balanced distribution of risks, profits and costs, rights and duties.*

Efficient preparation and realization of projects on the basis of SPP mechanisms will allow increasing investments into the system of health care and correspondingly will accelerate the process of achieving the strategic goals of health care system. The article has researched the normative-legislative base acts regulating the SPP in the RK, analyzed trends of SPP development in the health care system of the Republic of Kazakhstan, problems and perspectives of the SPP development have been defined.

As the objects to research we chose the informative-legislative system «Әділет» of the Republic center of legal information of the Ministry of Justice of the RK <http://adilet.zan.kz> with the list of officially accepted normative-legislative acts (NLA), official information sources (the round table material, seminars, internet-sites). In order to increase availability and quality of services on account of competitiveness in conditions of medical insurance it is planned to transform the medical establishments by the principles of corporate management, to expand the guaranteed volume of free medical aid (GVFMA) through private suppliers. We find it prospective to introduce new forms of the SPP for health care system of the RK that implies realization of investment projects with information-communication technologies attracting private partners including pharmaceutical companies.

Key words: *state-private partnership, health care system, normative-legislative acts, concession, information-communication technologies, investments*

Introduction. State-private partnership (SPP) has recently spread in all spheres of economy and proved valuable as an effective mechanism to attract private investments to solve socially significant tasks. It is obvious that SPP has a number of advantages for the state, business and population as the final consumer of the produced services. For the private sector it is new investment possibilities and correspondingly new sources of income, a possibility to take part in big projects that is long-term, stable and profitable business [1]. For the state it is a possibility to apply resource and intellectual potential of private companies, to save the budget, to provide the infrastructure development by accelerated tempo, to delegate part of risks to the private sector and attract investments, and economic growth [1] which especially topical for the Republic of Kazakhstan (RK) in the difficult recession period of the world economy, the cost reduction of basic mineral resources (oil, metal) and as the consequence a significant drop of budget income of the state treasury. In this regard one of the alternative and topical instruments to provide necessary financial basis to create and modernize objects of the social infrastructure (medical organizations, roads, educational establishments and etc.) is a mechanism of SPP. Synergy of the state and private business allows increasing quality of the services provided to the population by the optimal ratio «price – quality», providing the infrastructure development, creating additional work [places that in complex has a positive multiplicative effect [1,2]. Nowadays there are many definitions of SPP the core point of

which is that it is a mutually beneficial cooperation of the state and private sector in the spheres traditionally referring to the state responsibility on conditions of balanced distribution of risks, profits and costs, rights and duties [3].

The health care system of the RK is one of the most important social spheres where applying the elements of SPP is urgently essential for the state as the current state financial provision is not sufficient and does not cover all medical needs [4]. The analysis of the macroeconomic indices has shown a significant lagging of the budget investments in the health care system of the RK in comparison to the well-developed countries level. According to the results of 2014 the share of total spending on health care (Fig. 1, 2) of the gross domestic product (GDP) of the RK was [4,5]

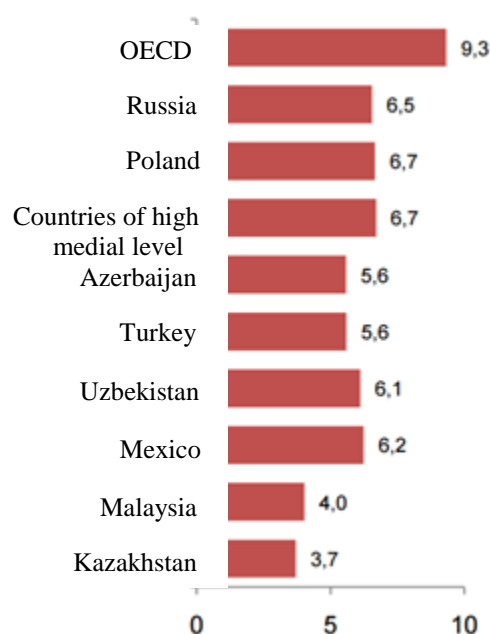


Fig.1. Total spending on health care in the world, % to GDP, 2014

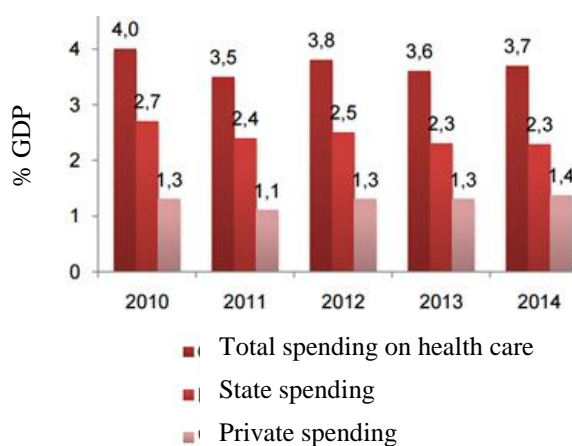


Fig. 2. Dynamics of health care spending structure in the RK, % to GDP, 2010-2014

3,7% , in the countries of the Organization of Economic Cooperation and Development (OECD) – 9,3%. The difference of the state spending on health care is significant which is in the RK is 2,3% and in the countries of the OECD - 7,5%. Due to the insignificant financing of the health care system in Kazakhstan high level of private expenditure to receive medical aid (RK - 35,4%, OECD - 19,6%, European Union - 16,3%). According to the WHO data the population's expenditure level above 20% is a sign of low financial stability of the health care system and characterizes a higher risk for the population that can lead to worsening of health and demographic indices [4]. Efficient

preparation and realization of projects on the basis of SPP mechanisms will allow increasing investments into the system of health care and correspondingly will accelerate the process of achieving the strategic goals of health care system.

The research goal is the analysis of problems and perspectives of SPP development in the health care system of the RK with account of accepted normative-regulating basis in the RK. To achieve this goal we have set the following tasks: to study the legislative and regulatory acts regulating SPP in the RK, in particular the health care system, to make the block-scheme with forms of the SPP projects realization, to analyze trends of SPP development in the health care system of the Republic of Kazakhstan.

The materials and methods of research. As the objects to research we chose the informative-legislative system «Әділет» of the Republic center of legal information of the Ministry of Justice of the RK <http://adilet.zan.kz> with the list of officially accepted normative-legislative acts (NLA) regulating the development of SPP sphere in the RK and the official internet-resources of the authorized bodies. During the research we used the structural-logical analysis and content-analysis.

The results and discussion

The review of the normative regulations of the SPP development in the RK

In the RK according to the informative-legislative system data «Әділет» there are 92 acting NLA (including different specialized regulation acts) regulating the SPP development in the RK. The basic NLA are listed below the key ones of which are first 4 acts:

1. Law of the Republic of Kazakhstan on «State-private partnership»
2. Law of the Republic of Kazakhstan on «Concessions»
3. Decree of President of the Republic of Kazakhstan dated 1 February 2010 № 922 on «Strategic plan of development the Republic of Kazakhstan till 2020»
4. Decree of the Government of the Republic of Kazakhstan dated 29 June 2011 № 731 on «The approval of the Program to develop the state0private partnership in the Republic of Kazakhstan for 2011-2015 years»
5. The entrepreneurial Code of the Republic of Kazakhstan
6. Decree of President of the Republic of Kazakhstan dated 26 June 2013 № 590 on «The approval of the Concept of the new budget policy of the Republic of Kazakhstan»
7. Law of the Republic of Kazakhstan on «The state property»
8. The Civil Code of the RK
9. The Land Code of the RK
10. The Budget Code of the RK
11. The annual address of President Nazarbayev N.A. including the address to the people of Kazakhstan dated 14 December 2012 «The Strategy «Kazakhstan-2050»: a new political course of the established state»

The start for the SPP development in the RK was even in 1991 when the first Law of the RK on «Concessions» which regulated managerial, economic and legal conditions of providing concessions to the foreign investors only in the form of property, land and natural resources and which lost its force in 1993. In 2006 a new Law on Concessions was adopted and lately this law has been added and improved due to the practical implementation of the SPP projects in the RK. Nowadays under the concession and concession agreement (Lat. *concessio* — permission, concession) we understand a form of the SPP with an engagement of a private partner in the efficient management of the state property or in providing services which are usually supplied by the state on mutually beneficial terms [3].

The review of the normative documents in the SPP sphere allows making a conclusion about a gradual improvement of the legislative basis for the last 2-3 years in the RK. In particular we can note adoption of the Law of the RK on «The state-private partnership» which promotes expending application of new forms of the SPP (Fig.3).

We cannot but mention that to increase the institutional and legal structure development of the SPP, introduction of the pilot projects in Kazakhstan in July 2008 by the Decree of Government of the RK (DG RK) it was created a specialized body on the concession issues – joint-stock company (JSC) «Kazakh center of the state-private partnership» (KC SPP), the main goal of which is to assist in methodological provision of the editing concession projects and to prepare the personnel to the SPP development. Also two regional centers were launched to work – in Karaganda and Ust-Kamenogorsk. In March 2014 the Center to assist the projects of the state-private partnership was created the founder

of which were the JSC National welfare holding «Baiterek» (75%) and KC SPP (25%). By the DG RK dated 30 April 2014 №428 the Center was established as a legal entity on consulting assistance of the Republican and local concession projects. Since 2011 the subdivision of the Center of investment projects of the Republican State Enterprise on the Right of Economic Use «Republican Center of Health Care Development» has developed mechanisms of attracting private investments in the sphere of health care, using the SPP among them [2].

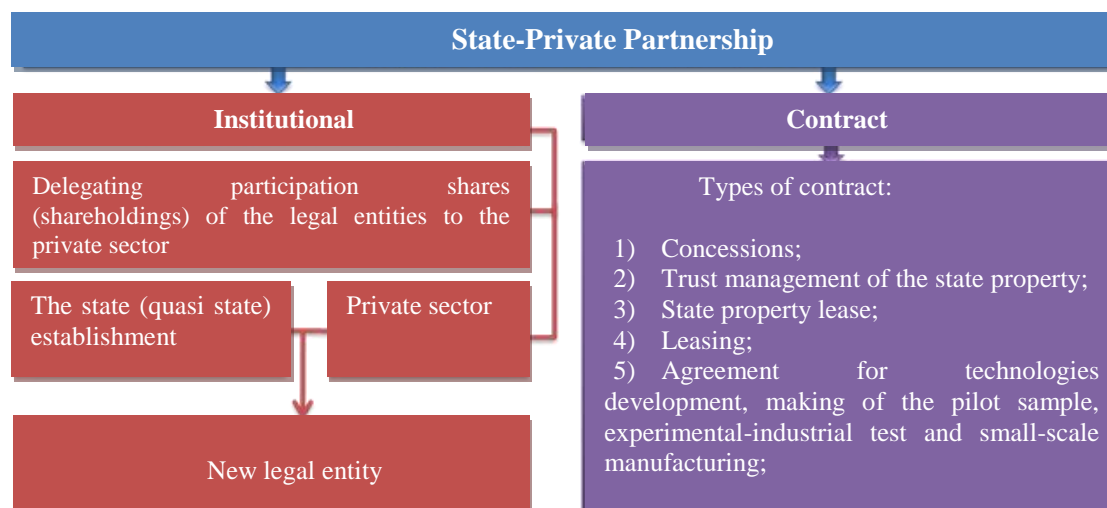


Fig.3. Forms of realization the SPP projects [6]

Basic NLA regulating the SPP development in the health care system in the RK:

1. The Code of the RK on «The Nation's health and health care system».
2. The State Program of Health Care Development in the RK «Salamatty Kazakhstan» for 2011-2015 years adopted in November 2010.
3. The State Program of Health Development in the RK «Densaulyk» for 2016 - 2019 years adopted in January 2016.
4. Law of the Republic of Kazakhstan on «Obligatory social medical insurance» (OSMI)
5. The Nation Plan «100 Concrete Steps» abided by 5 President's Reforms.
6. The Concept of electronic health development of the RK for 2013-2020years.

According to the Nation Plan one of the priorities of the health care system is development of private medicine system. In order to increase availability and quality of services on account of competitiveness in conditions of medical insurance it is planned to transform the medical establishments by the principles of corporate management, to expand the guaranteed volume of free medical aid (GVFMA) through private suppliers. In the State Program on Health Development «Densaulyk» for 2016-2019 years a separate chapter is devoted to the SPP development - «*Providing further development of the health infrastructure on the basis of the SPP and modern information-communication technologies (ICT)*». In order to stimulate the private sector development and SPP it is planned to take a set of measures for preparation and consulting assistance of projects, model documents and acts on tariff formation and guarantee the volume of medical services consumption [4]. Under the road map it will be formed a list of objects to realize according the SPP mechanisms including trust management, privatization, construction or reconstruction of the objects by the concession model [4]. It is important to note that with account of the OECD introduction since 2017 a new information base for insurance medical aid will be created based on the resources of electronic health care, tax bodies, bodies of social insurance and social security. Along with the traditional approaches to the computerization of industrial processes it is planned to implement innovative ICT, for example, remote automated monitoring of patients' health condition with the help of mobile medical devices [4].

Conclusion. On the basis of the done review of the normative documents and current condition of the SPP in the RK we have drawn the following conclusions of drawbacks and opportunities of the SPP.

Table 1

№	Opportunities	Problems/Drawbacks
1	The SPP development including the health care system is a strategic priority in the RK.	Existence of restrictions in some sectors - tariff, license. Unregulated aspects connected with investing risks (finance, delays).
2	Gradual improvement of the legislative base for the last 2-3 years in the RK. Adoption of the SPP law and perspectives of expanding the partnership forms in future.	Practical realization of the SPP classical projects only in the health care system – concession and service contracts (hemodialysis in private centers). Lack of alternative forms and attracting investments, pharmaceutical companies among them.
3	For the state the opportunity to use resource and intellectual potential of the private investor, saving the budget means, economy growth due to the investments, sharing risks with the private partner.	Low activity of the state bodies which are initiators of the SPP projects because in practice it is easier to realize socially significant projects through budget investments.
4	For a private partner – new investment possibilities, profit increase, long-term projects and profitability.	Time consuming procedure of planning and risk of low investment attraction. Difficulty of the exit strategy of the project after signing the agreement in any crisis situation.
5	For the service beneficiaries – increase of the provided services, additional work places, the infrastructure development.	The risk of prioritization of business profitability and high profit to efficiency and quality of the provided service for the private partner
6	Additional investments allow accelerating the process of achieving the key indices of the health care system	Lack of qualified personnel to use new technologies and lack of knowledge in the SPP sphere.

There are many as problem factors so as possibilities to develop SPP in the health care system. The analysis done let us define what problems must be solved to improve SPP. We find it prospective to implement new forms of the SPP in the health care system of the RK, attracting investments and pharmaceutical companies' experience among them:

- 1) letting some definite types of medical and non-medical services (laboratories, meals, maintenance of medical equipment and etc.) in long-term outsourcing;
- 2) introducing the SPP service on the basis of medical equipment supplied by the private companies based on long-term contracts for medical and service provision, consumables supply;
- 3) realizing the investment projects to implement information systems in the health care system.

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