

ESSAYS

APPLICATION OF INFORMATION TECHNOLOGY IN KAZAKH CIVIL PROCEEDINGS

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Abstract

The ubiquitous digital transformation of society has also affected civil proceedings. However, neither legislators nor scholars have yet given due consideration to the innovations stemming from this phenomenon. This paper characterizes electronic civil proceedings in Kazakhstan, identifies regulatory challenges, and proposes solutions to overcome them. The study employs descriptive, analytical, and formal-legal methods to examine e-justice issues. The article highlights objectives for digitalizing civil proceedings in Kazakhstan and key initiatives to achieve them. It discusses operational information-analytical systems, including their services and modules. Additionally, it notes judicial domains where big data and artificial intelligence (AI) are currently applied. An analysis of Kazakhstan's experience reveals these challenges: insufficient transparency in judicial activities; inadequate legal regulation of IT implementation (including AI in judicial processes); and the absence of a robust legislative framework for establishing and operating a digital environment. The paper supports adopting a Digital Code of Kazakhstan and amending the Civil Procedure Code to ensure proper implementation of civil procedure principles. It further proposes formalizing the application specifics of electronic civil procedure norms through a regulatory resolution of Kazakhstan's Supreme Court.

Keywords

civil proceedings, electronic proceedings, electronic civil case, IT in courts, principles of judicial proceedings, ensuring procedural rights, legislative improvement

Conflict of interest

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ПРИМЕНЕНИЕ ИНФОРМАЦИОННЫХ ТЕХНОЛОГИЙ В КАЗАХСТАНСКОМ ГРАЖДАНСКОМ СУДОПРОИЗВОДСТВЕ

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Аннотация

Повсеместная цифровизация коснулась и гражданского судопроизводства. Вместе с тем до сих пор ни законодатель, ни ученые не уделили новациям, вызванным этим явлением, должного внимания. В настоящей работе планируется охарактеризовать электронное судопроизводство по гражданским делам в Казахстане, раскрыть проблемы его регулирования и предложить пути их преодоления. При исследовании вопросов электронного судопроизводства использованы дескриптивный метод, анализ, формально-юридический метод. В статье освещаются целевые установки цифровизации гражданского судопроизводства в Казахстане и основные направления работы по их достижению. Описываются применяемые при этом информационно-аналитические системы, включающие различные сервисы и модули. Отмечаются области судебной деятельности, где в настоящее время применяются большие данные и искусственный интеллект. На основе изучения казахстанского опыта выявлены следующие проблемы: не в полной мере обеспечена открытость судебной деятельности, недостаточно урегулированы на законодательном уровне вопросы применения ИТ, в том числе использования искусственного интеллекта в судебной деятельности, не сформирована на надлежащем уровне законодательная основа создания и функционирования цифровой среды. Поддерживается идея о необходимости принятия Цифрового кодекса Республики Казахстан, о внесении поправок в Гражданский процессуальный кодекс Республики Казахстан в целях надлежащей реализации принципов гражданского процесса. Особенности применения норм гражданского судопроизводства в электронном режиме предлагается закрепить в нормативном постановлении Верховного Суда Республики Казахстан.

Ключевые слова

гражданское судопроизводство, электронное судопроизводство, электронное гражданское дело, ИТ в судах, принципы судопроизводства, обеспечение процессуальных прав, совершенствование законодательства

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Introduction

In today's era of universal digitalization, broad consensus holds that information technologies enhance judicial efficiency and transparency, while creating accessible, user-friendly interfaces for public and institutional interaction with courts. Moreover, IT implementation in the judicial system is promoted to ensure court accessibility, eliminate bureaucratic barriers, and reduce corruption by limiting personal contact between judges, court administrators, and legal entities.

Simultaneously, integrating modern technologies into Kazakhstan's civil proceedings¹ has brought not only benefits but also significant challenges. These became particularly evident during the COVID-19 pandemic, when courts abruptly transitioned to resolving most civil cases electronically. While IT had previously been utilized in Kazakhstani courts, the pandemic catalyzed a sharp increase in online proceedings, compelling courts to urgently address multifaceted issues, including regulatory gaps in e-justice, technical infrastructure limitations, software deficiencies, and shortfalls in participants' digital literacy.

This period witnessed a surge in publications by judges, lawyers, practitioners, and legal scholars addressing online justice. Prior scholarship on electronic civil proceedings existed — notably, M. A. Alenov (2023, pp. 71–73) observed that practical implementation of court e-procedures was outpacing legislative development and stressed the need to harmonize cross-sectoral procedures. However, pre-2020 literature primarily offered informational content on Supreme Court and local court websites, reporting on national digitalization initiatives.²

Post-2020 publications began to critically examine the advantages and disadvantages of online proceedings, while proposing solutions. In analyzing the pros and cons of virtual hearings, Judge T.B. Amrashev advocated for modernizing software.³ Professor G. Zh. Suleimenova identified issues pertaining to online criminal proceedings, such as vulnerabilities in data security, difficulties in procedural compliance, and the risks of remote participants abusing procedural rights.⁴ She ultimately concluded that online trials should not be used for serious crimes, complex multi-episode cases, group crimes, or crimes when defendants deny guilt.⁵ D. R. Yegezhanova (2023, pp. 21–31) emphasized the need to enhance the digital education of judges based on literacy criteria and international benchmarks.

¹ This study deliberately focuses exclusively on the Kazakhstani experience. This narrowed research scope is justified by the need to: provide a comprehensive characterization of Kazakhstan's e-justice system, and present an integrated approach to addressing existing challenges in this domain.

² See, in particular: *Postanovleniye Pravitel'stva Respubliki Kazakhstan o Gosudarstvennoy programme «Tsifrovoy Kazakhstan»* [Regulation of the RK Government on the State Program “Digital Kazakhstan”], Bank of Regulatory Legal Acts, Dec. 12, 2017, № 827.

³ Amrashev, T. B. (2021, February 17). *Sudebnyye zasedaniya v rezhime «online». Plyusy i minusy* [Online court hearings. Pros and cons]. Infosystem “Yurist”. https://online.zakon.kz/Document/?doc_id=34814246&pos=3;-52#pos=3;-52

⁴ The problems mentioned above are also partly characteristic of e-justice in civil cases.

⁵ Suleimenova, G. Zh. (2020, November 24). *Nekotoryye problemy rassmotreniya ugovolnykh del v onlayn-sudebnom protsesse v usloviyakh pandemii* [Some issues with hearing criminal cases in online court proceedings during the pandemic]. Infosystem “Yurist”. https://online.zakon.kz/Document/?doc_id=39053137

Nevertheless, Kazakhstani scholarship lacks a comprehensive analysis of electronic civil case procedures and holistic solutions for associated challenges. This study addresses that gap by examining domestic court practices and integrating academic and practical works by Kazakhstani authors.

Results

Three documents posted on the website of the Supreme Court of the Republic of Kazakhstan⁶ contain information on the use of IT in the administration of justice. These are: (1) *The Strategy of Information and Communication Technologies for the Judicial System of the Republic of Kazakhstan*, (2) *On the Digitalization of the Judicial System*, and (3) *IT Technologies in the Courts*.⁷ Their content shows that informatization covers all stages of civil proceedings, up to the issuance of writs of execution.

The press service of the Supreme Court of the Republic of Kazakhstan notes that Kazakhstan ranks fourth among 47 countries in terms of IT implementation by the courts, according to data published in the reviews by the European Commission for the Efficiency of Justice (CEPEJ) for 2020 and 2022.⁸

The goals of digitalizing civil proceedings in Kazakhstan are to increase transparency, ensure broad access to justice, and improve the quality of judicial decisions. To achieve these goals, work has been carried out in several areas.

Firstly, courts and judicial administrations have been provided with technical means and communication channels. The courtrooms in all courts are equipped with modern audio and video recording (AVR) systems⁹, with the resultant recordings centrally stored. The court's use of audio and video recordings of court hearings is regulated by the CPC RK¹⁰. In particu-

⁶ A unified online platform for judicial authorities (sud.gov.kz) was created in 2014. The website allows users to view information about the activities of the Supreme Court of the Republic of Kazakhstan and all local courts. Today, the website has more than 5,000 visitors per day and 25,000 views daily (Alekhova, A. (2021, April 29). *Blagodarya tsifrovizatsii Kazakhstan zanimayet 4-e mesto v Doing Business po «Obespecheniyu ispolneniya kontraktov»* [Thanks to digitalization, Kazakhstan ranks fourth in Doing Business in terms of "Enforcing Contracts"]. Portal of the Supreme Court of the Republic of Kazakhstan. <https://sud.gov.kz/rus/massmedia/blagodarya-cifrovizatsii-kazahstan-zanimaet-4-e-mesto-v-doing-business-po-obespecheniyu>). Thus, court websites have a unified platform characterized by a standardized, intuitive structure and centralized management.

⁷ Supreme Court of the Republic of Kazakhstan. (n.d.). *Strategiya informatsionno-kommunikatsionnykh tekhnologiy dlya sudebnoy sistemy Respubliki Kazakhstan* [Strategy of information and communication technologies for the judicial system of the Republic of Kazakhstan]. Retrieved October 10, 2024, from <https://sud.gov.kz/rus/content/cifrovizatsiya>; Supreme Court of the Republic of Kazakhstan. (n.d.). *O tsifrovizatsii sudebnoy sistemy* [On the digitalization of the judicial system]. Retrieved October 10, 2024, from <https://sud.gov.kz/rus/content/cifrovizatsiya>; Supreme Court of the Republic of Kazakhstan. (n.d.). *IT-tehnologii v sudakh* [Information technologies in the courts]. Retrieved October 10, 2024, from <https://sud.gov.kz/rus/content/cifrovizatsiya>

⁸ Press service of the Supreme Court. (2023, May 19). *Iskusstvennyy intellekt i bol'shiye dannyye (Big Data) v sudebnoy i pravookhranitel'noy sisteme* [Artificial intelligence and big data in the judicial and law enforcement system]. <https://sud.gov.kz/rus/news/iskusstvennyy-intellekt-i-bolshie-dannye-big-data-v-sudebnoy-i-pravookhranitelnoy-sisteme>

⁹ The rules on mandatory audio and video recording of court hearings were introduced in 2016 when considering not only civil cases, but also criminal, administrative cases and cases of administrative offenses.

¹⁰ *Grazhdanskiy Protsessual'nyy Kodeks Respubliki Kazakhstan* [CRC RK] [Civil Procedure Code] (Kaz.).

lar, in accordance with Part 1 of Article 281 of the CPC RK, when conducting an AVR of a court hearing, a brief protocol is drawn up. The secretary of the court hearing prints out the brief protocol prepared by the system and attaches the AVR to it. According to paragraph 2 of Part 4 of Article 282 of the CPC RK, the AVR medium and the brief protocol are attached to the case, and in accordance with paragraph. 2 part 5 of the same article, the procedure for the technical use of AVR equipment that ensure the recording of a court hearing, storage and destruction of audio and video recordings, as well as access to audio and video recordings, is determined by the authorized government body in the field of judicial administration.¹¹ The AVR system provides a number of advantages in the conduct of judicial proceedings in civil cases: it optimizes the judicial process, ensures complete and reliable recording of the course of the court hearing, and makes it possible for persons participating in the case and judges of higher courts to remotely review audio and video recordings of the court hearing.

Secondly, each judge is provided with an automated workstation that enables the electronic exchange of petitions, digital evidence, and other documents. This increases the speed of processing and receiving information and reduces the time required to consider and resolve civil cases.

Thus, conditions have been established for conducting legal proceedings in electronic format. In other words, electronic civil cases and their consideration in digital form have been introduced in the courts of Kazakhstan. In April 2019, a new Chapter 11-1, titled '*Features of Electronic Legal Proceedings*', was added to the Civil Procedure Code of the Republic of Kazakhstan.

Notably, the format of proceedings is determined by the method of filing selected by the plaintiff. Judicial statistics indicate a clear preference among parties for electronic proceedings. The choice of format is limited only in cases involving "simplified" (written) procedures. According to Part 5 of Article 267-3 of the CPC RK, such cases are reviewed in electronic format under simplified (written) proceedings, without summoning the parties. These types of cases have been handled electronically since 2018.

In electronic legal proceedings, an electronic civil case file is created. Procedural acts and actions undertaken by the court and the parties involved are formalized as electronic documents, certified with a digital signature.

In June 2020, the CPC RK was supplemented with Article 133-4, "*Electronic Protocol*."¹² According to Part 1 of this article, audio and video recordings of court proceedings are

¹¹ Prikaz Rukovoditelya Departamenta po obespecheniyu deyatelnosti sudov pri Verkhovnom Sude Respubliki Kazakhstan «Ob utverzhdenii Pravil tekhnicheskogo primeneniya sredstv audio-, videozapisi, obespechivayushchikh fiksirovaniye khoda sudebnogo zasedaniya, khraneniya i unichtozheniya audio-, videozapisi, dostupa k audio-, videozapisi» [Order of the Head of the Department for Ensuring the Activities of Courts under the Supreme Court of the Republic of Kazakhstan "On Approval of the Rules for the Technical Application of Audio and Video Recording Equipment Ensuring Recording of the Progress of a Court Session, Storage and Destruction of Audio and Video Recordings, Access to Audio and Video Recordings"], Nov. 24, 2015, No. 6001-15-7-6/486, https://online.zakon.kz/Document/?doc_id=33009574&pos=1;-18#pos=1;-18

¹² See Zakon "O vnesenii izmeneniy i dopolneniy v nekotoryye zakonodatel'nyye akty Respubliki Kazakhstan po voprosam razvitiya biznes-sredy i regulirovaniya trgovoy deyatelnosti" [Law "On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on the Development of the Business Environment and Regulation of Trade Activities"], Kazakhstanskaya Pravda, 2019, No. 63, Item 28940.

recognized as electronic protocols. For complex cases, a brief protocol may be supplemented with a text transcript of the audio recording, generated through automatic speech recognition.

Technical requirements¹³ for the electronic protocol ensuring its completeness, structure, and high-quality reproduction are established by the Judicial Administration of Kazakhstan in accordance with the provisions of CPC RK.

The original version of a judicial act is the electronic document published in the Judicial Office system.

When the court provides copies of the AVRs of a court hearing, participants are informed that the recording may only be used for lawful purposes and are cautioned about liability for violations of personal data protection laws. In cases heard in a closed court session, participants are not granted access to the AVRs or the protocols of the hearing. Instead, they are permitted to review them on site at the court (Paragraph 5, Part 4, Article 282 of the CPC RK).

Thirdly, conditions have been established to ensure the transparency of civil proceedings and to provide online access to court documents.

Since 2016, Kazakhstan has operated a unified information and analytical system called *Torelik*, which integrates all internal information processes of the courts. The system maintains automated records, monitors compliance with procedural deadlines, identifies violations, and generates statistical and analytical reports.

Torelik is integrated with 32 databases of government agencies and organizations, significantly simplifying the work of judges. Written requests are no longer necessary – information required by the court is now accessible with a single click.

In addition, the system is linked to the e-government payment gateway, enabling courts to receive real-time data from second-tier banks on payments made and state fees received.

The *Judicial Account* (“Sudebnyy Kabinet”), *eGov.kz*¹⁴ and *e-Otinish* systems, are also in operation, ensuring electronic document flow across all forms of legal proceedings and types of appeals to government agencies in Kazakhstan.

The *Judicial Account* system, in operation since 2014, serves as a single online portal for accessing court services. Through this system, individuals—or their representatives—can electronically submit claims, complaints, or petitions; view and print court documents; and perform other actions. The system has streamlined the work of court offices, as users themselves complete the necessary accounting details when submitting materials to the court.

¹³ *Prikaz Rukovoditelya Departamenta po obespecheniyu deyatelnosti sudov pri Verkhovnom Sude Respubliki Kazakhstan “Ob utverzhdenii Tekhnicheskikh trebovaniy k elektronnomu protokolu, obespechivayushchikh polnotu, strukturirovaniye i kachestvennoye vosproizvedeniye”* [Order of the Head of the Department for Ensuring the Activities of Courts under the Supreme Court of the Republic of Kazakhstan “On Approval of Technical Requirements for an Electronic Protocol Ensuring Completeness, Structuring and High-Quality Reproduction”], Aug. 6, 2020, No. 9, <https://sud.gov.kz/rus/content/ob-utverzhdenii-tehnicheskikh-trebovaniy-k-elektronnomu-protokolu-obespechivayushchih-8>

¹⁴ *eGov.kz* (Unified System of Electronic Document Management of Government Agencies) is an electronic government portal introduced in Kazakhstan in 2006. All Kazakhstani courts and offices of regional and equivalent courts are included in its participants.

The *Judicial Account* system comprises 15 services and modules. Some are accessible to all users, while others are restricted to participants in legal proceedings.

Services and modules of the *Judicial Account* system available to all individuals and legal entities include the following:

1. Register of Judicial Acts — Allows users to search for judicial acts that have entered into legal force. It contains decisions on civil cases heard in open court sessions since 2009. These acts can be downloaded in PDF format, include barcodes, and their authenticity can be verified through a separate service.
2. “Find a Case” — Enables users to search for civil cases currently under consideration by the courts.
3. Review of Court Documents — Provides online access to civil case materials, allowing users to view electronic court documents.
4. Checking the Authenticity of a Judicial Act — Allows users to verify the authenticity of judicial acts that have entered into legal force in publicly accessible civil cases.
5. Sign Up for a Personal Appointment — Enables users to schedule appointments with court officials.
6. External Evaluation Questionnaire — Used to collect feedback in order to identify shortcomings in judicial proceedings. Users may suggest improvements and highlight issues in the consideration and resolution of civil cases.

Services of the *Judicial Account* system available exclusively to participants in legal proceedings include the following:

1. Court Hearing Schedules — Allows users to add events to a calendar and view information about scheduled hearings.
2. Submission of Documents — Enables users to view all documents they have submitted to judicial authorities via a web service.
3. “My Cases” — Provides access to all cases initiated based on a user’s claims.
4. Notifications — Displays all notifications sent to the user by the court.
5. Online Conversation — Allows parties to schedule an online conversation prior to a court hearing in a civil case.
6. Power of Attorney — Enables users to submit a digitally signed power of attorney for inclusion in the case file.
7. E-Reconciliation — Supports the conduct of reconciliation procedures with the assistance of a professional mediator.
8. “My Letters” — Allows users to send letters to judicial authorities regarding matters not related to legal proceedings or citizens’ appeals, in accordance with the APC RK.¹⁵
9. Calendar of a Participant in the Proceedings — Allows participants to enter their availability so that the judge can take this into account when scheduling a court hearing.

¹⁵ Administrativnyy Protседurno-protсessual’nyy Kodeks Respubliki Kazakhstan [APC RK] [Administrative Procedural Code of the Republic of Kazakhstan] (Kaz.).

Users can log into the *Judicial Account* system in one of three ways:

- by using their individual identification number (IIN) and password;
- with an electronic digital signature;
- by scanning a QR code.

The progression of a case in electronic format is as follows:

- After logging in, the user is directed to the *Judicial Account* system to file a claim.
- Through the *Document Submission* service, a party may file a response to a claim, an objection to the response, petitions, and supporting materials.
- *Notifications* and notices are delivered via the *Judicial Account* system. They are available in the Notifications section and are also sent to the phone number registered in the Citizens' Mobile Numbers Database.
- The court hearing is conducted online via video conferencing or mobile video conferencing.
- The progress of the hearing is tracked.
- A judicial act issued after the case is reviewed, but not yet legally binding, is available in the *My Cases* service.
- Once the judicial act enters into legal force, it becomes available in the *Bank of Judicial Acts* service.
- Using the *Document Submission* service, a user may appeal a judicial act by selecting the appropriate appellate or cassation court and submitting the relevant complaint or petition.

To enhance convenience, a mobile version of the *Judicial Account* system has been launched. The mobile app is available free of charge and allows users to log in and sign documents via QR code, eliminating the need for third-party software on a computer.

These IT tools enable users to file claims, responses, counterclaims, complaints, petitions, and other documents online; pay state fees; submit applications for mediation and select a professional mediator; participate in court hearings and procedural actions; and receive judicial decisions and other documents electronically.

With the consent of the parties and other participants, court hearings — except for closed sessions — may also be broadcast online.

The use of IT innovations has created conditions for ensuring consistent judicial practice and greater predictability in the administration of justice. This includes the integration of big data and elements of artificial intelligence into judicial activities.

To enable real-time monitoring and analysis of court operations, the Supreme Court of the Republic of Kazakhstan established a Situation Center in 2017. This unified monitoring system tracks over 750 indicators related to the administration of justice. It operates in real time, processes incoming requests, and analyzes their subject matter.¹⁶ Legal proceedings, office operations, information security, and the use of artificial intelligence features, as well as other metrics, are automatically monitored and analyzed.

¹⁶ Akhmetzakirov, N. R. (2021, January 8). *Sudy Kazakhstana v usloviyakh tsifrovoy transformatsii* [Courts of Kazakhstan in the Context of Digital Transformation]. Portal of the Supreme Court of the Republic of Kazakhstan. <https://sud.gov.kz/rus/massmedia/sudy-kazakhstana-v-usloviyakh-tsifrovoy-transformatsii-nahmetzakirov-sudovy-vesnik-no4-dekabr>

Data on 750 indicators are available at the national, regional, and individual court levels. Built-in algorithms generate dozens of analytical reports, including those on compliance with procedural deadlines, judicial workload, case categories, and more.

Smart assistants have been developed specifically for judges, including the *Judge's Planner* and *Court Jurisprudence* systems.

The *Judge's Planner* smart assistant helps judges organize their work efficiently. It processes information about ongoing cases, provides real-time updates on scheduled and completed hearings, tracks deadlines, and generates a calendar of court hearings. It also automatically links relevant case law summaries based on the category of each case. This not only saves judges time on administrative tasks but also allows them to quickly familiarize themselves with applicable judicial practice.

The *Court Jurisprudence* smart assistant was developed using big data technologies to support accurate decision-making in civil cases. The service contains decisions from various cases, grouped by year. Data entry began in 2011, with full inclusion starting in 2016. By the end of 2024, the system contained nearly 11 million decisions in civil cases. Similar to search engines, the system can locate any information within the text of judicial acts. Judges can easily find relevant decisions, helping them navigate existing case law. They can also review specific rulings from all court levels in cases of interest. To enhance the search process, text mining technology has been implemented, enabling keyword searches within judicial documents.

Since 2022, the *Digital Analytics of Judicial Practice* IT system, which incorporates elements of artificial intelligence, has been put into operation. This system can identify a case's category, search for similar cases, trace a case's progression through different court levels, and detect non-standard decisions – rulings that differ from those issued in similar cases. It can also predict case outcomes. The system analyzes millions of judicial acts with a single click and provides situational analytics. Its algorithm is trained to understand the content of rulings, compare them, detect anomalies, and forecast the likely result of a civil case.

The *Digital Analytics of Judicial Practice* system performs intelligent searches designed to support consistency in judicial practice. From the moment a claim is submitted, the judge can view rulings in similar cases, including cassation decisions. This enables the judge to identify established practice and make a well-informed decision in a civil case. In this way, the system functions as a practical tool for developing and maintaining uniform judicial practice.

Discussion

Currently, the *Digital Analytics of Judicial Practice* system is available only to judges. Other individuals do not have access to comparable intelligent search tools. In this context, it is worth noting that as early as 2021, President K. K. Tokayev stated: “The advantages of information technologies should also be felt by *participants in the process*, for whom it is *initially important to understand the probability of the outcome of their*

case” [italics mine — Z.B.]. He emphasized the need to make the judicial system’s IT services accessible to all interested parties. “This is a really difficult task,” he noted, “and we must approach it absolutely rationally... Of course, in compliance with the requirements for the confidentiality of information.”¹⁷ However, the *Digital Analytics of Judicial Practice* system, implemented in 2022, remains inaccessible to parties involved in legal cases, as well as to others who could use its data to decide whether to file a claim. If public access were granted, the number of cases resolved without trial could increase, while the number of unfounded claims might decrease. Moreover, opening the system would allow its data to be used for academic research, legal consulting, expert analysis, and other purposes. Despite the evident need, access to the *Digital Analytics of Judicial Practice* system has yet to be addressed.

Since 2022, a robotic algorithm has also been launched in Kazakhstan. This system automatically verifies data from all government electronic databases, registers cases, and distributes them among judges. One completed project involves the automation of court orders for the collection of alimony for minor children. Among other benefits, this solution enables faster and more effective protection of children’s rights. Certain decisions by bailiffs have also been partially automated. For instance, a robot now prepares draft sanctions for rulings that restrict travel abroad, although the final decision remains with the judge.

The use of IT in the judicial system is not intended to replace judges but rather to serve as an additional tool. This principle is affirmed in the *Concept for the Development of Artificial Intelligence for 2024–2029* (hereinafter referred to as the *Concept*), adopted in the summer of 2024. The *Concept* states: “Artificial intelligence does not replace but complements a human. Active human participation in the control and management of the decision-making process of AI systems must be ensured, placing humans above artificial intelligence in the hierarchy of decision-making authority, with the ability to adjust AI actions. Continuous monitoring and critical assessment of AI performance must be ensured.”¹⁸ At the same time, the risks associated with the use of artificial intelligence and its elements in judicial activities are not defined by law. It can only be said that the Kazakh judicial system is, to some extent, guided by the five principles for the use of artificial intelligence in courts, as outlined in the *European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems and Their Environment* (CEPEJ),¹⁹ in which Kazakhstan holds observer status.

¹⁷ Press Service of the President of the Republic of Kazakhstan. (2021, February 12). *Glava gosudarstva provel soveshchaniye po voprosam modernizatsii sudebnoy sistemy* [The Head of State held a meeting on the modernization of the judicial system]. Official website of the President of the Republic of Kazakhstan. https://www.akorda.kz/ru/events/akorda_news/meetings_and_sittings/glava-gosudarstva-provel-soveshchanie-po-voprosam-modernizatsii-sudebnoi-sistemy

¹⁸ *Postanovleniye Pravitel'stva Respubliki Kazakhstan Ob utverzhdenii Kontseptsii razvitiya iskusstvennogo intellekta na 2024–2029 gody* [Regulation of the RK Government on the “Concept of development of artificial intelligence for 2024–2029”], July 24, 2024, No. 592, <https://adilet.zan.kz/rus/docs/P2400000592>

¹⁹ Council of Eur. Eur. Comm’n. for the Efficiency of Justice. [CEPEJ], *Eur. Ethical Charter on the Use of AI in Jud. Sys. and their Env’t*, 31st Plen. Meeting (2024, Dec. 3–4), also available in Russian, see https://online.zakon.kz/Document/?doc_id=-35417997&pos=2;-51#pos=2;-51

Work is currently underway to establish a new legislative framework for information management systems and artificial intelligence. Existing laws do not fully regulate unified approaches to building a digital society. The *Concept* highlights several issues: the absence of a systematic approach to regulating digital platforms and services, which leads to fragmentation and legal conflicts; legislative gaps in this area; and a widening gap between legislation and the rapid pace of technological development.

At present, this area is governed by several specialized laws: the Law of January 7, 2003 *On Electronic Document and Electronic Digital Signature*,²⁰ the Law of July 5, 2004 *On Communications*,²¹ the Law of April 15, 2013 *On Public Services*,²² the Law of May 21, 2013 *On Personal Data and Its Protection*,²³ and the Law of November 24, 2015 *On Informatization*.²⁴ In addition, nearly 200 departmental by-laws adopted to implement these laws are currently in force. Relevant provisions relating to digitalization have also been incorporated into sectoral codes, including procedural codes, and various laws.

Given the continuing expansion of legislation in this domain, the question of codification has emerged – specifically, the adoption of the *Digital Code of the Republic of Kazakhstan*. A draft of the Code published in April of 2024 proposes three main areas of regulation: the digital rights of individuals and citizens, the digital economy, and the digital state.²⁵ The issue of codification is presently being discussed among government bodies,²⁶ legal professionals, and the academic community. Some argue, however, that codifying the legal regulation of such rapidly evolving social relations is premature in the absence of legislation addressing newly emerging institutions in this field (Idrisheva, 2022, pp. 72–87).

²⁰ Zakon “Ob elektronnom dokumente i elektronnoy tsifrovoy podpisi” [Law “On Electronic Document and Electronic Digital Signature”], March 07, 2003, No. 370, <https://adilet.zan.kz/rus/docs/Z030000370>

²¹ Zakon Respubliki Kazakhstan “O svyazi” [Law “On Communications”], July 05, 2004, № 567, <https://adilet.zan.kz/rus/docs/Z040000567>

²² Zakon Respubliki Kazakhstan “O gosudarstvennykh uslugakh” [Law “On Public Services”], April 15, 2013, No. 88-V, <https://adilet.zan.kz/rus/docs/Z1300000088>

²³ Zakon Respubliki Kazakhstan “O personal'nykh dannykh i ikh zashchite” [Law “On Personal Data and Their Protection”], May 21, 2013, No. 94-V, <https://adilet.zan.kz/rus/docs/Z1300000094>

²⁴ Zakon Respubliki Kazakhstan “Ob informatizatsii” [Law “On Informatization”], Novem. 24, 2015, No. 418-V ZRK, <https://adilet.zan.kz/rus/docs/Z1500000418>

²⁵ Dos'ye na proyekt Tsifrovogo kodeksa Respubliki Kazakhstan [Draft Digital Code of the Republic of Kazakhstan], April 2024, https://online.zakon.kz/Document/?doc_id=38933548&pos=12;-52#pos=12;-52

²⁶ See, for example: Official information Source of the Prime Minister of the Republic of Kazakhstan. (2024, June 19). *Razrabotku Tsifrovogo kodeksa obsudili v Pravitel'stve s uchastiyem predstaviteley mezhdunarodnykh organizatsiy i kompaniy* [The development of the Digital Code was discussed in the Government with the participation of representatives of international organizations and companies]. <https://primeminister.kz/ru/news/razrabotku-tsifrovogo-kodeksa-obsudili-v-pravitel'stve-s-uchastiem-predstaviteley-mezhdunarodnykh-organizatsiy-i-kompaniy-28659>; Press Service of the Ministry of Digital Development, Innovation and Aerospace Industry of the Republic of Kazakhstan. (2023, November 6). *V MTSRIAP obsudili proyekt Tsifrovogo kodeksa* [The draft Digital Code was discussed in the MDDIAI]. Unified platform of Internet resources of government bodies [of Kazakhstan]. <https://www.gov.kz/memleket/entities/mdai/press/news/details/647893?lang=ru>; *Tsifrovoy kodeks: obsuzhdeniye nachato* [Digital Code: Discussion has begun]. (2024, October 21). <https://mybuh.kz/news/tsifrovoy-kodeks-obsuzhdeniye-nachato/>

The *Digital Code* is needed to:

- Systematize legal regulation,
- Eliminate legal gaps and conflicts,
- Ensure safety in the digital space,
- Minimize risks to personal data,
- Prevent discrimination through the use of digital technologies,
- Avoid duplication of functions among authorized bodies,
- Establish guarantees for the safe use of AI.

Alongside the draft *Digital Code*, coordinated efforts should be undertaken to prepare a bill introducing amendments and additions to procedural and other legislative acts. The CPC RK should also be supplemented with new provisions to support the effective use of IT in judicial processes. We support the view that particular attention must be given to the substance of certain principles of legal proceedings to ensure their full implementation in the context of online justice.²⁷

In particular, this concerns the principles of:

- equality of all before the law and the court (Article 13 of the CPC RK)
- procedural equality of the parties (Article 15)
- publicity of the trial (Article 19)
- the right of everyone to be heard in court (subparagraph 4, paragraph 3, Article 77 of the *Constitution of the Republic of Kazakhstan*)²⁸
- the principle of directness and orality of the trial (Article 186 of the CPC RK).

In addition, we believe that full-scale electronic legal proceedings require a revision of several provisions within the institution of evidence and proof in civil cases, particularly those regulating the submission and examination of written evidence and the procedure for witness interrogation.²⁹ The need to amend and supplement the CPC RK is also driven by several practical factors: limited mobile broadband access in remote and hard-to-reach areas; inconsistent communication quality; and low levels of digital literacy among certain groups of citizens. These issues directly affect both the format of legal proceedings and the conduct of cases held online.

It also appears necessary for the Supreme Court of the Republic of Kazakhstan to adopt a regulatory resolution³⁰ on the application of civil procedural law to electronic legal proceed-

²⁷ Suleimenova, G. Zh. (2020, November 24). *Nekotoryye problemy rassmotreniya ugovolnykh del v onlayn-sudebnom protsesse v usloviyakh pandemii* [Some issues with hearing criminal cases in online court proceedings during the pandemic]. Infosystem “Yurist”. https://online.zakon.kz/Document/?doc_id=39053137

²⁸ Konstitutsiya Respubliki Kazakhstan [Const. RK] [Constitution], https://adilet.zan.kz/rus/docs/K950001000_ (Kaz.).

²⁹ Tukulov, B. (n.d.). *Ob osnovnykh osobennostyakh i trudnostyakh onlayn-pravosudiya v Kazakhstane* [On the Main Features and Difficulties of Online Justice in Kazakhstan]. TKS Disputes. <https://tks.law/kz/publications/ob-osnovnyh-osobennostyakh-i-trudnostyakh-onlayn-pravosudiya-v-kazahstane>

³⁰ Regulatory resolutions of the Supreme Court of the Republic of Kazakhstan are part of the legislative system (clause 1 of Article 4); relate to the main types of regulatory legal acts (subparagraph 5 of paragraph 2 of Article 7); are outside the hierarchy of regulatory legal acts (clause 5 of Article 10); contain explanations on issues of judicial practice (clause 3 of Article 5) (Zakon Respubliki Kazakhstan “O pravovykh aktakh” [Law “On Legal Acts”], April 06, 2016, No. 480-V, <https://adilet.zan.kz/rus/docs/Z1600000480>).

ings. Such a legal act should comprehensively address all aspects specific to electronic justice in civil cases, including both practical and technical considerations. For example, courts require clear guidance on the grounds for postponing hearings, particularly in cases where technical issues may disrupt the continuation of proceedings. Questions also arise regarding how to uphold the principle of publicity in online hearings, especially in terms of ensuring access for citizens and media representatives to open court sessions.

Numerous other issues in judicial practice stem from the application of civil procedural law to online proceedings. These challenges span all stages of the civil process. Therefore, a regulatory resolution from the Supreme Court would serve, on the one hand, to ensure the correct and uniform application of civil procedure by the courts and, on the other, to safeguard the procedural rights of participants and other involved parties.

Given that over 95% of civil cases are now conducted online, such a resolution would become a key legal instrument in upholding the legality and fairness of justice in Kazakhstan.

Conclusion

Undoubtedly, in today's world, the progressive development of society and the state is unthinkable without information technology, including in the field of justice. The high level of IT integration in Kazakhstan's legal proceedings has been recognized in CEPEJ reports in 2020, 2022. Online civil proceedings offer numerous advantages: increased efficiency, transparency, accessibility, convenience, reduced corruption risks, simplified document flow, and streamlined case management. Digital services and tools improve the quality of judicial decisions, ensure consistency in judicial practice, and enhance predictability. Financial investments in this area are fully justified.

At the same time, digitalization brings both positive and negative effects. Technical problems became particularly evident during the COVID-19 pandemic, when the majority of civil cases were processed online. Despite the widespread use of IT and artificial intelligence, further development is necessary, especially with regard to expanding access to the *Digital Analytics of Judicial Practice* system.

Legal regulation continues to lag behind the practical use of IT in civil proceedings, underscoring the urgent need for updated and comprehensive legislation. A unified approach to digital society governance should be pursued through codification. The adoption of a *Digital Code* would help systematize regulation and eliminate legal gaps and inconsistencies. Amendments to the CPC RK are also needed, as digitalization affects fundamental principles and procedural institutions.

To ensure the proper and consistent application of rules governing electronic civil proceedings, the Supreme Court should systematize judicial practice and adopt a regulatory resolution.

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