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By Order No. 402 of the Science and Higher Education Quality Assurance Committee of the Ministry of Science and Higher Education of the Republic of Kazakhstan dated June 4, 2026, the Eurasian Journal of International Law (EAJIL) was included in List 2 of publications recommended by the Committee for the publication of the main results of scientific research. The Committee has also decided that publications in our journal shall be recognized as being included in List 2 from April 2025.

Қазақстан Республикасы Ғылым және жоғары білім министрлігінің Ғылым және жоғары білім саласындағы сапаны қамтамасыз ету Комитетінің 2026 жылғы 4 маусымдағы №402 бұйрығымен «Eurasian Journal of International Law (EAJIL)» журналы ғылыми қызметтің негізгі нәтижелерін жариялау үшін Комитет ұсынған басылымдардың 2- енгізілді. Комитет журналымыздың жарияланымдары 2025 жылғы сәуір айынан бастап (2025 жылғы екінші нөмірден бастап) 2-тізімде жарияланған болып есептеледі деген шешім қабылдады.

Приказом Комитета по обеспечению качества в сфере науки и высшего образования Министерства науки и высшего образования Республики Казахстан от 4 июня 2026 года №402 «Eurasian Journal of International Law (EAJIL)» включен в Список 2 изданий, рекомендуемых Комитетом для публикации основных результатов научной деятельности. Комитет принял решение, что публикации нашего журнала считаются находящимися в Списке 2 с апреля 2025 г. (Со второго номера 2025 г.).

EAJIL is included in the List of peer-reviewed scientific publications in which the main results of research within the framework of dissertations submitted for defence to the dissertation councils of RUDN must be published (Order of the Acting Rector of RUDN University A.A. Kostin No. 480 dated July 29, 2025).

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Abstract. International trade is an essential aspect of the global economy, founded on a complex legal and institutional system that governs trade relations, dispute settlement, and economic development. This article examines the evolution of international trade law through historical economic treaties, multilateral rules, and regional trade agreements. It analyzes the General Agreement on Tariffs and Trade and the creation of the World Trade Organization in order to evaluate their influence on the modern trading system. The article also considers regional trade agreements, bilateral investment treaties, and trade facilitation measures as important elements of the contemporary trade order. Particular attention is paid to the functions of the WTO, UNCTAD, the IMF, the World Bank, and regional institutions in shaping global economic governance. Finally, the article discusses digital trade, geopolitical fragmentation, and sustainability as challenges that require continued adaptation of international trade law. The analysis shows that legal institutions remain central to ensuring certainty, fairness, and efficiency in international commerce.

Keywords: international trade law; GATT; WTO; regional trade agreements; bilateral investment treaties; digital trade; dispute settlement; trade liberalization

Халықаралық сауда жүйесінің негізгі институттары мен құқықтық құжаттары: шолу және талдау

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Аңдатпа. Халықаралық сауда жаһандық экономиканың маңызды бөлігі болып табылады және сауда қатынастарын, дауларды шешуді әрі экономикалық дамуды реттейтін күрделі құқықтық және институционалдық жүйеге сүйенеді. Бұл мақала халықаралық сауда құқығының эволюциясын тарихи экономикалық шарттар, көпжақты қағидалар және өңірлік сауда келісімдері арқылы талдайды. Зерттеуде Тарифтер мен сауда жөніндегі бас келісімнің және Дүниежүзілік сауда ұйымының құрылуының қазіргі сауда жүйесіне ықпалы қарастырылады. Сонымен қатар өңірлік сауда келісімдері, екіжақты инвестициялық шарттар және сауда рәсімдерін жеңілдету шаралары қазіргі халықаралық сауда тәртібінің маңызды элементтері ретінде бағаланады. Мақалада ДСҰ, ЮНКТАД, ХВҚ, Дүниежүзілік банк және өңірлік институттардың жаһандық экономикалық басқарудағы рөлі көрсетіледі. Зерттеу халықаралық құқықтық құжаттардың мемлекеттер арасындағы экономикалық өзара тәуелділікті реттеудегі маңызын, сондай-ақ дамушы елдердің көпжақты сауда жүйесіне қатысу мүмкіндіктерін айқындайды. Соңында цифрлық сауда, геосаяси бөлшектену және тұрақты даму халықаралық сауда құқығының одан әрі бейімделуін талап ететін өзекті сын-қатерлер ретінде қарастырылады. Талдау құқықтық институттардың халықаралық саудадағы айқындықты, әділеттілікті және тиімділікті қамтамасыз етудегі маңызын дәлелдейді. Нәтижелер болашақтағы құқықтық үйлестіру бағыттарын айқындауға мүмкіндік береді.

Түйін сөздер: халықаралық сауда құқығы; ГАТТ; ДСҰ; өңірлік сауда келісімдері; екіжақты инвестициялық шарттар; цифрлық сауда; дауларды шешу; сауданы либерализациялау

Основные институты и нормативные источники системы международной торговли: обзор и анализ

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Аннотация. Международная торговля является неотъемлемым элементом мировой экономики и основывается на сложной системе правовых и институциональных механизмов, регулирующих торговые отношения, разрешение споров и экономическое развитие. В статье рассматривается эволюция международного торгового права через призму исторических

экономических договоров, многосторонних норм и региональных торговых соглашений. Особое внимание уделяется Генеральному соглашению по тарифам и торговле и созданию Всемирной торговой организации, а также их влиянию на современную торговую систему. Анализируются региональные торговые соглашения, двусторонние инвестиционные договоры и меры по упрощению процедур торговли как важные элементы современного торгового порядка. Рассматривается роль ВТО, ЮНКТАД, МВФ, Всемирного банка и региональных институтов в формировании глобального экономического управления. Исследование также показывает значение международных правовых документов для согласования интересов государств, поддержания предсказуемости торговых отношений и участия развивающихся стран в многосторонней системе. Отдельно освещаются цифровая торговля, геополитическая фрагментация и устойчивое развитие как вызовы, требующие дальнейшей адаптации международного торгового права. Проведенный анализ показывает, что правовые институты остаются ключевым условием определенности, справедливости и эффективности международной торговли.

Ключевые слова: международное торговое право; ГАТТ; ВТО; региональные торговые соглашения; двусторонние инвестиционные договоры; цифровая торговля; разрешение споров; либерализация торговли

Introduction

Trade, specifically international trade, has been central to the development of the international economic system for centuries. Trade helps countries to unlock local competitive strengths, creates competitiveness and encourages efficiency improvements in the manufacturing and services industries of individual countries. However, with growth in the trade activities, trading partners require formulating clear legal frameworks that will foster stability, information disclosure and reciprocal fairness (Chen and Gao, 2022, pp. 227-238). For many years, several trade liberalization measures and organizations have also evolved to foster cooperation, solve conflicts, and standardize international relations.

In this paper, the international trade system is defined by examining its evolution, the main legal instruments of international trade and the primary international organizations regulating the trade system. The study traces the origins of trade law from early economic treaties and mercantilist policies to the development of contemporary multilateral and regional trade agreements. It also considers the summary of the major trade agreements like the General Agreement on Tariffs and Trade (GATT, 1947) and formation of the World Trade Organization (WTO) and their relevance towards trade liberalization and integration on the global scale.

Besides, it also outlines the characteristic features of Regional Trade Agreements (RTAs), Bilateral Investment Treaties (BITs), and trade facilitation arrangements that define modern trade policies. This article also assesses the roles of key organizations, including the WTO, the United Nations Conference on Trade and Development (UNCTAD), and International Monetary Fund (IMF) in the management

of international trade and their prevailing roles and approaches to navigating current issues like e-commerce, sustainability, and economic nationalism. This article therefore endeavors to give a critical evaluation of these developments in order to offer a prognosis regarding the future of international trade governance in a more digitalized world. Trade helps countries to unlock local competitive strengths, creates competitiveness and encourages efficiency improvements. However, the liberalization of global trade requires a comprehensive system of rules that would guarantee stability, transparency, and fairness. In time, conventions and institutions that facilitate these agreements materialized to include tariffs, the protection of intangible assets, the management of trade disputes, and trade liberalization.

This paper therefore aims to not just discuss the global trading system at the micro level through understanding the development of the international trading system, but also elaborate the law governing trade, and the organizations involved in international trade regulation. From early economic treaties to modern multilateral and regional trade agreements this work demonstrates the importance of the legal framework for promoting trade. Further, it discusses the issues around free trade, protectionism, and the future evolution of trade rules in the context of digitalization.

Materials and methods

The study is based on a qualitative legal analysis of international trade instruments, institutional documents, and academic literature. The research question is how the major legal agreements and institutions of international trade have evolved and how they respond to contemporary challenges, including digitalization, regionalization, and sustainability. The working hypothesis is that the international trade system remains institutionally resilient, but its rules require further adaptation to new technological and geopolitical conditions. The research was conducted in four stages: first, the historical formation of trade regulation was reviewed; second, key multilateral and regional legal instruments were examined; third, the role of international and regional institutions was analyzed; and fourth, current challenges were assessed in light of recent scholarship and institutional practice. The methods used include historical analysis, comparative legal analysis, institutional analysis, and doctrinal interpretation of legal sources. Language editing and formatting assistance, including assistance from ChatGPT, was used in preparing the manuscript; the selection of sources, legal analysis, and final conclusions remain the responsibility of the author.

Literature review

The literature review covers classical and contemporary scholarship on commercial law, international economic law, WTO law, regional trade integration, investment protection, and digital trade governance. The reviewed works identify the transition from customary commercial practices to treaty-based and institution-based regulation, while recent studies emphasize fragmentation, WTO dispute settlement difficulties, data governance, and the growing interaction between trade rules and

sustainability objectives. These studies provide the analytical basis for identifying gaps in the current trade regime and for assessing the need for further legal adaptation.

Historical evolution of international trade law

International trade regulation has evolved significantly overtime due to various factors such as different theoretical frameworks used by individual countries and regional blocks to enhance trade, geopolitical factors, and the emergence of different international organizations. The earliest known legal frameworks governing trade can be dated back in Mesopotamia, the Greeks, and the Roman empires where trade law and trading custom duties enabled commerce (Chen, 2024, pp. 421-432). One of the early legal systems for the regulation of trade was the Code of Hammurabi that contained legal provisions for commerce, contracts, and debt security in Mesopotamia (Bhagwati, 2002, pp. 10-15). In Ancient Greece, through city-state such as Athens and Corinth, the administration established legal frameworks on trading with foreign traders while in ancient Rome commercial law was formalized into set laws that other future European traders would emulate (Trakman, 1983, pp. 120-130). This laid the foundation for formation of legal frameworks that guided how different governments enabled commerce in their territories.

In the medieval period, with the growth of trading across Europe, the concept of *Lex Mercatoria*, a customary trade law was established by the merchants themselves and was upheld by the trading courts (Trakman, 1983, pp. 120-130). This promoted the growth of commercial transactions across different jurisdictions by establishing standard form contracts, credit instruments, and ways to solve disputes. The growth of giant trading cities, including the Hanseatic League, enhanced international trade through affording legal relations of protection to the merchants (Findlay and O'Rourke, 2007, pp. 145-150). The establishment of these legal frameworks made it possible for merchants to trade freely across Europe.

At the same time, developments in international trade were not limited to Western Europe. In other regions, state involvement in trade relations followed different trajectories. For example, the Russian Empire combined elements of protectionism with selective openness, relying on customs regulation and state-controlled trade routes to manage external economic relations (Kahan, 1985, pp. 80-95). Similarly, in the Ottoman Empire, trade was often structured through capitulations that granted privileges to foreign merchants, reflecting a distinct legal approach to cross-border commerce (İnalçık, 2000, pp. 100-120). In East Asia, the Chinese tributary system represented yet another model, where trade was embedded within a broader framework of political hierarchy rather than governed by market-based principles (Fairbank, 1953, pp. 200-215).

These developments also brought about changes in the structure and scale of global trade during the 19th century as improved transportation and communication made it easier to carry out sales between other nations. The Gold Standard, developed in the late nineteenth century, maintained more stable rates of exchange and increases exchange rate certainty through linking currencies to gold (Eichengreen, 2018, pp. 45-

60). Furthermore, the establishment of international banks offering credit facilities enabled businesses to expand their operations through cross border transactions (Helleiner, 2014, pp. 120-135). These banks enabled access to capital across borders, broadening the scope of international trade and creating the need for stronger and more diverse laws that protected the interest of both traders and the money lending institutions.

The twentieth century witnessed a shift towards a multilateral institutional framework for managing the international trade system and creating international trade laws. After the economic disaster of the Great Depression, mainly due to protectionism in the 1930s, world leaders realized the necessity for an international trade system. The Bretton Woods Conference (1944) marked the beginning of the post-war economic order by creating entities like the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (IBRD) for Restoration and Development (Feng, 2006, pp. 80-95). The General Agreement on Tariffs and Trade (GATT), signed in 1947, was the first major movement in regulation of global commerce, providing the framework for tariff negotiations and the settlement of trade disputes (Feng, 2006, pp. 80-95). In subsequent decades, GATT evolved through many negotiation rounds, such as the Kennedy Round (1963-1967), the Tokyo Round (1973–1979), and the Uruguay Round (1986-1994) which culminated in the formation of the WTO in 1995.

As the twenty- first century commenced, the field of international trade law has not only remained relevant but has also adjusted to accommodate globalization, technological innovations, and geopolitical realignments. The Role of Regional Trade Agreements such as the North American Free Trade Agreement (NAFTA now USMCA), and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) has risen significantly in determining trade policies (Zahoor et al., 2023, pp. 823-859). Besides, digital trade, intellectual property rights, and environmental protection and advocacy all have emerged as critical elements in current trade negotiations, leading to new legal work including WTO Joint Statement Initiative on E-Commerce and Digital Economy Partnership Agreement (DEPA) Trade 4.0 (Chen and Gao, 2022, pp. 227-238). All these are developments that are unique to the 21st Century and point to a new direction in the formulation and implementation of international trade laws.

East Asia was a focal point and unique in the history of international trade, throughout the periods discussed above. As early as the Han dynasty China became the eastern end of the Silk Roads - a huge interwoven system of trading paths, connecting East Asia with Central Asia, the Middle East and the Mediterranean - where Chinese products like silk, lacquerware, porcelain and iron tools were traded with the rest of the world. Importantly, the domestic Chinese economy was substantial enough to support the needs of the state and its population without imports, i.e. the balance of trade power was almost always skewed in favor of East Asia. In East Asia, East Asian states did not have multilateral treaties that governed trade but instead the Chinese tributary system as a hierarchical structure where neighboring states like Korea, Vietnam and

the Ryukyu Islands used diplomatic missions to Beijing so that the states receive political acknowledgement and trading rights (Haggard and Kang, 2020, pp. 1-30). Although tributary missions were involved in commerce, that trade was strictly regulated and otherwise regarded as incidental to the diplomatic and political functions of the order, and the land-based political economies of the central states pushed trade to an unregulated periphery. During the 17th to the second half of the 19th century, Japan further limited its foreign trading contacts, confining trade to Korea and China and barring foreign trade with the Western powers, except a small Dutch trading-post in southern Japan. The western expansion of their imperialists essentially destabilized this regional order: the First Opium War between Britain and Qing dynasty between 1839-1842 is generally considered the tipping point where the western powers took a direct challenge to the status quo of the East Asian international system and compelled China to open its ports on unequal conditions and exposed the region to the European commercial law. During the post-World War II period, the East Asian nations took different directions: Japan, with no natural resources and equipped with an educated labor force, chose to encourage industrial production to be exported, a course of action that proved fruitful with the three other so-called four tigers: Hong Kong, South Korea, Taiwan, and Singapore. Then, towards the end of the 20th century, there was a radical turn to institutionalized trade governance in the region. China, Japan, Korea, Mongolia and Taiwan were virtually the only nations, in the whole region, which treated the WTO principle of the Most-Favored-Nation completely with respect, WTO, prior to the region then embarking on a wide-ranging spate of bilateral and regional agreements. In 2020, ASEAN became a member of Australia, China, Japan, New Zealand and South Korea to establish the Regional Comprehensive Economic Partnership (RCEP) Council on Foreign Relations and present East Asia as one of the keystones of the modern rules-based trading order.

In conclusion, analyzing the historical development of international trade law helps demonstrate the transition from bilateral to multilateral and regional approaches. The ever-evolving trade law due to economic, technological, and political factors thus requires a strong and adaptable trade law to understand and cope with the evolving nature international trade in the modern word.

Results and discussion

Major Legal Agreements in International Trade

General Agreement on Tariffs and Trade (GATT) and the WTO

The General Agreement on Tariffs and Trade (GATT) was created as a result of the inability to form a more global International Trade Organization (ITO) in the wake of the Bretton Woods conference. GATT was agreed upon by 23 countries at Geneva in 1947, and took effect on 1 January 1948; originally intended as a transitional measure until a permanent United Nations trade agency was established, it was increasingly expanded and became by far the most effective tool of world trade liberalization in the second half of the twentieth century. It had an underlying architecture that was based on three principles. The first article of GATT, the most-

favoured-nation (MFN) principle, meant that, each time a country reduced a barrier to trade, or opened a market, it must also do the same to the same goods or services of all its trading partners, both rich and poor, weak and strong. The national treatment principle also stipulated that imported goods must not be accorded less favorable treatment than domestically produced goods once they were in the market and that in tariff binding signatories were obliged to face (higher) ceiling rates to which they could not reduce without prior agreement. Combined, these non-discriminatory agreements were the foundation of what would become the multilateral trading system.

Over eight rounds of multilateral negotiations between 1947 and 1994, GATT continued to broaden its membership and reach as well as the subject matter of the agreement. In 1947 the average tariff rates among leading members of the GATT were about 22 percent; at the end of the Uruguay Round rates were reduced to less than 5 percent. The initial rounds focused on tariff reduction, but the Kennedy Round of the mid-1960s signified an important evolution and included the GATT Anti-Dumping Agreement, and a separate section on development, and the Tokyo Round of the 1970s was the first serious effort to address non-tariff barriers, and to improve the whole system. Under the Metropolitan Museum of Art The Tokyo Round, the 102 nations involved in the event cut tariffs as well as instituted new rules aimed at combating the spread of non-tariff barriers and voluntary export quotas, leading to compromises on about 190 billion dollars of trade.

The Uruguay Round (1986-1994), the last and the most radical round, changed the foundation of the international trading order, re-architecting it. It bore the largest negotiating mandate on trade ever concurred, expanding the trading system into new large regions, specifically trade in services and intellectual property, and a reform of trade in the sensitive sectors of agriculture and textiles, with all original GATT articles subject to review. The round brought about the first use of MFN and national treatment obligations to services sectors, the General Agreement on Trade in Services (GATS), as well as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), which had set minimum standards on the protection and enforcement of intellectual property across the world and the Agreement on Agriculture (AoA), which initiated the complex process of subjecting agricultural subsidies and market-access restrictions to multilateral discipline (Zhou and Chen, 2023, pp. 193-211). As importantly, the Uruguay Round established the permanent World Trade Organization on 1 January 1995 to replace the provisional GATT secretariat with an institution with legal personality, a full dispute settlement mechanism and a mandate over goods, services and intellectual property all at the same time.

The WTO Dispute Settlement Understanding (DSU) was a qualitative breakthrough on the previous dispute procedures that the GATT had. In contrast to its predecessor, the DSU produced a new and different rule, the so-called reverse consensus, under which panel reports could be adopted virtually without dissent by individual members, but an Appellate Body was established on a standing basis to review the lawfulness of panel determinations and maintain a high degree of consistency and predictability between decisions. During the period between 1995 and

2023, WTO members made 621 consultation requests which resulted in 283 panel reports having been drafted and 203 panel reports having been adopted, making WTO dispute settlement system one of the most prolific international adjudicative systems in the world, even surpassing even the International Court of Justice in output during the same time (European Parliament, 2024). Nevertheless, the system has been in structural crisis since December 2019, when the continued blocking of new Appellate Body appointments by the United States made the second-instance body inquorate and substantially disabled the binding appellate review. This institutional stalemate, whereby appealing parties can have panel decisions reviewed on administrative leave, has led to the creation by a group of WTO members of the Multi-Party Interim Appeal Arbitration Arrangement (MPIA) as a stand-in, although there has been no consensus to revise the dispute settlement mechanism on a larger scale (European Parliament, 2024). Nevertheless, the combination of these strains makes GATT and the WTO the most important multilateral success in the regulation of international trade which has introduced the rules-based framework under which regional and bilateral agreements since have been conducted.

Regional Trade Agreements (RTAs) and Bilateral Investment Treaties (BITs)

Regional Trade Agreements (RTAs) have emerged as effective tools for attaining trade liberalization outside the multilateral framework. NAFTA (North American Free Trade Agreement), signed in 1994 but later replaced by the United States-Mexico-Canada Agreement (USMCA) in 2020, exemplifies the broader shift toward regionalism in the formulation and implementation of trade laws and policies (Zahoor et al., 2023, pp. 823-859). Similarly, the Regional Comprehensive Economic Partnership (RCEP) — which includes members of the Association of Southeast Asian Nations (ASEAN) and their major trading partners, including China, Japan, South Korea, Australia, and New Zealand — constitutes the largest trade agreement in the world by economic coverage, establishing common rules for trade across the Asia-Pacific region (Patunru and Rahardja, 2015, pp. 5-15). RTAs afford countries an opportunity to negotiate trade rules tailored to their specific economic interests, accompanied by investment protections and dispute resolution mechanisms. In this context, Bilateral Investment Treaties (BITs) serve a complementary function by protecting foreign investments and maintaining legal stability for investors operating across borders. For instance, China's BIT with Germany (1983, revised 2003) established investor-state dispute settlement (ISDS) mechanisms allowing disputes to be resolved through international arbitration rather than domestic courts (Dolzer and Schreuer, 2012, pp. 13-18). China is likewise a member of several RTAs, including RCEP, aimed at consolidating its interests in global trade and securing preferential access with regional partners.

Digital Trade and Emerging Legal Frameworks

Due to the increasing digitization of commerce and services, legal systems have been compelled to adapt in order to accommodate emerging digital trade practices. The WTO's Joint Statement Initiative on E-Commerce (JSI on E-Commerce), launched in

2017 and involving over 90 WTO members, represents a significant multilateral effort to establish binding rules on digital trade. Concrete negotiating outcomes have included draft provisions on electronic authentication, electronic contracts, consumer protection online, and the prohibition of customs duties on electronic transmissions — issues that remain central to ensuring a predictable legal environment for cross-border digital commerce (Wunsch-Vincent, 2006, pp. 30-50). Similarly, the Digital Economy Partnership Agreement (DEPA), concluded in 2020 among Chile, New Zealand, and Singapore, is a landmark agreement specifically designed to govern cross-border data transfers and digital trade enablement. Concretely, DEPA introduced modular commitments on artificial intelligence governance, open government data, digital identities, and fintech cooperation — areas not previously addressed in traditional free trade agreements — thereby setting a new template for digital trade rule-making (Burri, 2017, pp. 65-132). Its provisions on consumer protection, intellectual property, and taxation further aim to foster the uninterrupted flow of digital transactions across an integrated world economy.

Bilateral Investment Treaties (BITs) continue to provide foundational legal standards of treatment that promote and safeguard foreign investment, thus contributing to overall trade stability (Dolzer and Schreuer, 2012, pp. 13-18). However, the advancement of digital trade and e-commerce has raised new legal questions that go beyond what existing BITs were designed to address, necessitating purpose-built instruments such as DEPA or dedicated negotiations under the WTO JSI on E-Commerce. Key unresolved issues include cross-border data transfers, data localization requirements, cybersecurity obligations, and the protection of intellectual property rights in electronically executed transactions — all of which require coordinated international legal responses as digital commerce continues to expand (Kim, 2022, pp. 156-193).

Institutions Governing International Trade **The World Trade Organization (WTO)**

The WTO acts as the chief forum for multilateral trade deal implementation by negotiating, monitoring, and resolving international trade disputes through its Dispute Settlement Body (DSB) (Hoekman and Wolfe, 2022, pp. 567-580). Established in 1995 to succeed the General Agreement on Tariffs and Trade (GATT), the WTO became the primary institutional forum for negotiating and administering global multilateral trade rules and agreements (Qin, 2003, pp. 483-522). The organization safeguards and defines the legal and institutional measures that facilitate implementation and compliance with trade agreements, with the overarching goal of maintaining free and fair trade across the world.

One of the WTO's most critical functions is its dispute settlement system, long regarded as the "crown jewel" of the multilateral trading system. However, this system is currently in a state of institutional paralysis. The WTO Appellate Body — the seven-member standing tribunal that serves as the second and final tier of the dispute settlement mechanism — has been non-functional since December 2019. This crisis was precipitated by the United States' sustained blocking of new Appellate Body

appointments, a practice that began under the Obama administration but intensified significantly under the Trump administration, on the grounds that the Appellate Body had overstepped its mandate by creating binding precedent and engaging in judicial overreach (Johannesson and Mavroidis, 2017, pp. 357-408) (Hillman, 2021, pp. 10-25). With the number of sitting members falling below the three required for a quorum, the Appellate Body ceased to be able to hear new appeals, effectively allowing losing parties to render dispute settlement decisions unenforceable by simply filing an appeal "into the void." As of 2024, the Appellate Body remains non-operational, and no consensus has been reached among WTO members on a comprehensive reform to restore it (Van den Bossche and Zdouc, 2021, pp. 243-251).

In response, a coalition of WTO members established the Multi-Party Interim Appeal Arbitration Arrangement (MPIA) in 2020 as a temporary substitute for appellate review, though the United States and several other major trading nations have not joined it, limiting its effectiveness as a universal solution (European Parliament, 2026). Beyond the Appellate Body crisis, the WTO has also faced broader criticism, including delays in dispute resolution, the proliferation of regional trade agreements that bypass the multilateral framework, and the difficulty of concluding new multilateral negotiations — most notably the stalled Doha Development Round. These cumulative challenges have progressively undermined the WTO's central mandate and contributed to a growing loss of confidence in its capacity to govern global trade law effectively in the future.

The United Nations Conference on Trade and Development (UNCTAD) and the International Trade Centre (ITC)

United Nations Conference on Trade and Development (UNCTAD) works to promote trade and development in the developing world through policy analysis, investment planning and advisory services (Baldwin, 2022, pp. 219-230). UNCTAD is an important organization of the United Nations, which was created in 1964 to address global trade challenges and promote fair trade for developing countries. This includes critical insights on trade flows, the outlook for the internationalization of the digital economy, and trends in international investments (Bhagwati, 2002, pp. 10-15). Further, the International Trade Centre (ITC), a body affiliated with the WTO and the UN, assists SMEs in export readiness by linking them to global markets and improving their competitiveness (Zahoor et al., 2023, pp. 823-859). ITC contributions consist of capacity development, trade policy, and market data, which positions the organization as an important player in promoting trade for all.

The Role of the World Bank, IMF, and OECD

The World Bank finances trade infrastructure in areas of transportation, supply chain development, and customs. According to Rodrik (2021), the World Bank invested heavily in large development projects to improve the connection and openness of the global trading system. The International Monetary Fund (IMF) oversees the balance of payments and fiscal and financial ties between countries, stabilizing exchange rates to enable international trade (Eichengreen, 2018, pp. 45-60). The IMF also offers financial support and advice to countries encountering trade-related

economic shocks. Organization for Economic Cooperation and Development (OECD) is a key institutional actor that informs international trade by generating knowledge, producing trade reports, and offering policy advice and data. Its work in trade agreements, taxation, and digital trade rules makes sure that its members' policies align with international standards and encourages best practice. These organizations are highly significant in the process of implementing global trade laws as their financing plays a major role in the development and implementation of trade policies that makes it easier for countries and regional blocks to refund loans and grants.

The Influence of Regional Trade Institutions

Besides global organizations, regional trade institutions like the European Union (EU), the Association of Southeast Asian Nations (ASEAN), and the African Continental Free Trade Area (AfCFTA) play a significant and complementary role in the regulation of international trade. The EU represents the most deeply integrated regional trade bloc in the world, having progressively formulated standardized trade, competition, and regulatory policies that have created a solid legal foundation for regional integration. Concretely, the EU Single Market — established through the Single European Act (1986) and deepened by the Treaty of Maastricht (1992) — eliminated tariff and non-tariff barriers among member states, introduced the free movement of goods, services, capital, and persons, and established a common external tariff applied uniformly to third-country imports (Pelkmans, 2013, pp. 45-67). The EU also negotiates trade agreements on behalf of all its member states, such as the EU-Mercosur Agreement and the Comprehensive Economic and Trade Agreement (CETA) with Canada, which include detailed provisions on tariff reduction, regulatory cooperation, investment protection, and sustainable development (Woolcock, 2021, pp. 1031-1048).

ASEAN facilitates intra-regional integration primarily through the ASEAN Free Trade Area (AFTA), established in 1992, which introduced the Common Effective Preferential Tariff (CEPT) scheme to systematically reduce tariffs on goods traded among member states, and through the ASEAN Economic Community (AEC) Blueprint, which aims to create a single market and production base across Southeast Asia (Ing and Kimura, 2017, pp. 20-40). These instruments contain concrete provisions governing the elimination of import duties, the harmonization of customs procedures, and the facilitation of trade in services and investment across the ten ASEAN member states.

Similarly, the AfCFTA — which entered into force in May 2019 and became operational in January 2021 — constitutes the largest free trade area in the world by number of participating countries, covering 55 African Union member states. Its foundational legal instruments include the Agreement Establishing the AfCFTA, the Protocol on Trade in Goods, the Protocol on Trade in Services, and the Protocol on Rules and Procedures on the Settlement of Disputes. The Protocol on Trade in Goods, for instance, commits state parties to eliminating tariffs on 90 percent of tariff lines, reducing non-tariff barriers, and establishing rules of origin to ensure that preferential treatment benefits genuine intra-African trade (Signé, 2018, pp. 50-70).

These regional trade institutions supplement the multilateral approach by addressing trade-related issues specific to their geographic and economic contexts and by promoting deeper economic cooperation than what is achievable at the global level. Taken together, regional trade blocs protect the commercial interests of both individual member states and the broader regional grouping, enabling the freer flow of trade while providing a structured legal framework to govern the tariff and non-tariff measures applied by individual states (Wu et al., 2020, pp. 995-1017).

The Future Evolution of Trade Rules in the Context of Digitalization

Digitalization, broadly defined in trade law scholarship as the process by which digital technologies transform economic activities, business models, and the delivery of services across borders, has become a central organizing concept in contemporary international trade governance. The WTO Joint Statement Initiative on E-Commerce (JSI on E-Commerce) — one of the most authoritative ongoing multilateral legal processes addressing digital trade — defines digital trade to encompass "digitally ordered and digitally delivered trade," including cross-border data flows, electronic transactions, and digital services, thereby providing a working legal framework for understanding what digitalization means in the context of international commerce. Similarly, the Digital Economy Partnership Agreement (DEPA, 2020) conceptualizes the digital economy as comprising "the use of digital technologies and data to drive economic activity and productivity across all sectors," explicitly recognizing that digitalization extends beyond e-commerce into areas such as artificial intelligence, fintech, and open government data. The OECD further defines digitalization in its Going Digital policy framework as "the transformation of economies, societies and institutions driven by the adoption and integration of digital technologies," emphasizing that its trade law implications require regulatory adaptation across multiple domains simultaneously (OECD, 2019, p. 18).

The growing application of digital technology in international business has profoundly impacted global trading systems, necessitating fundamental changes to accommodate new economic dynamics. Digitalization has introduced digital e-commerce, digital services, and cross-border data flows that require dedicated regulatory frameworks addressing fair competition, intellectual property protection, cybersecurity, and consumer rights. Traditional and conventional trade agreements were historically designed around the regulation of physical goods and, later, services delivered through established modes of supply — frameworks that are increasingly inadequate to capture the full range of digitally enabled transactions (Burri, 2017, pp. 65-132).

Data governance has emerged as one of the most contentious and consequential areas in the regulation of digital trade. Several major economies have enacted data localization measures — requirements that data generated within a jurisdiction be stored and processed domestically — which risk fragmenting the global digital market and creating significant barriers to cross-border digital trade. The WTO JSI on E-Commerce has specifically sought to address this fragmentation by developing draft provisions on cross-border data flows, the prohibition of data localization

requirements, and consumer protection in electronic commerce, though negotiations remain ongoing and consensus has not yet been achieved among all participating members (Yakovleva, 2018, pp. 477-508). Regional agreements have moved faster in this regard: DEPA, for instance, contains binding commitments on cross-border data flows and explicitly prohibits data localization requirements among its parties, establishing a model that subsequent digital trade agreements have sought to replicate.

Artificial intelligence and blockchain technologies have additionally been recognized as transformative forces in the future of trade, with concrete applications in supply chain transparency, smart contract enforcement, and trade finance and logistics. However, these technologies raise significant legal challenges, as different jurisdictions are developing divergent regulatory frameworks for AI governance and the legal recognition of digital contracts and blockchain-based transactions. The absence of harmonized international standards risks producing regulatory fragmentation that could function as a new category of non-tariff barrier to digital trade (Chen and Gao, 2022, pp. 227-238). As Maskus (2012) observes, the tendency toward divergent regulatory standards in digital trade increasingly functions as a structural obstacle to cross-border innovation and market integration (Maskus, 2012, pp. 89-95).

Sustainability concerns intersect with digitalization in important ways. The expansion of digital infrastructure — including data centers, cloud computing facilities, and telecommunications networks — generates significant energy consumption and electronic waste, raising questions about whether the growth of digital trade is compatible with states' commitments under international climate agreements such as the Paris Agreement (2015). International trade institutions are increasingly being called upon to align digital trade rules with environmental sustainability objectives, including through provisions on green digital infrastructure and the circular economy (Maskus, 2012, pp. 89-95).

The future trajectory of trade rules in this domain will likely be shaped by three principal developments: first, the conclusion and implementation of binding multilateral rules on digital trade through the WTO JSI on E-Commerce; second, the proliferation of regional and bilateral digital trade agreements modeled on DEPA and analogous instruments; and third, the development of internationally recognized legal standards for AI governance, blockchain-based transactions, and data protection in cross-border commerce (Kim, 2022, pp. 156-193). The WTO and regional trade institutions must adapt and deepen international cooperation to ensure that the emerging digital trade order is not only technologically innovative but also legally predictable, inclusive, and fair — particularly for developing countries that risk being left behind in the transition to a digitalized global economy (Van den Bossche and Zdouc, 2021, pp. 243-251).

Conclusion

International trade law and institutions have developed over time to help understand the challenges of international trade. International trade law has been an evolving concept from the barter trade practices of early civilizations to trade laws as

seen in treaties today. Legal structures like the GATT and the successor WTO shifted the structure and legalized the discussion and regulation of global trade, making it less chaotic through providing framework for appropriate mechanisms for dispute settlement and trade.

However, the current development of international trade law reveals a number of difficulties that should be described more precisely than by simply referring to “challenges.” The problem is not only that the system is under pressure, but that these pressures affect its legal structure in different ways. One difficulty arises from the growing multiplication of regional and bilateral arrangements. As more trade relations are governed outside the multilateral framework, States increasingly operate under overlapping commitments that do not always fit together smoothly. This makes the legal environment less coherent and complicates the question of which rules should prevail where norms point in different directions.

Another difficulty is connected with the present condition of WTO dispute settlement. The paralysis of the Appellate Body has done more than interrupt a procedural mechanism. It has weakened confidence in the enforceability of common trade rules and created more room for unilateral responses. In practical terms, this means that predictability — one of the central promises of the multilateral trade order — has become harder to preserve. A further difficulty concerns digital trade. Existing trade instruments were not drafted for problems such as data localization, cross-border data governance, platform regulation, or the legal consequences of algorithmic market organization. As a result, regulation develops unevenly. Some issues are addressed in regional or plurilateral arrangements, while others remain unresolved at the multilateral level. This unevenness itself has become a legal problem. The same can be said of sustainability-related concerns. Once trade agreements begin to incorporate environmental and climate-related objectives more directly, the question is no longer whether trade law should respond, but how far such integration can go without blurring the limits of the trade regime itself. This introduces a more complex relationship between trade law and other branches of international law. For that reason, the contemporary transformation of international trade law should not be understood merely as a series of isolated policy adjustments. What is taking place is a broader structural change in the way international trade is regulated, interpreted, and contested.

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Personal data governance in the digital economies of Vietnam and Kazakhstan: implementation challenges, cybersecurity risks and bilateral cooperation

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Abstract. The article presents a comprehensive comparative analysis of the legal regulation of personal data in two developing countries – Vietnam and Kazakhstan. Both countries are demonstrating significant progress in the developing of e-commerce. Despite their success, they face a number of risks and challenges, especially in the field of legal regulation. The given article evaluates recent legislative initiatives aimed at building transparent e-commerce system and highlights some of the vulnerabilities that may be encountered in practice. To mitigate the issues discussed, the authors propose a number of solutions including in the field of mutual cooperation.

Keywords: personal data, digital economy, data governance, cybersecurity, legal regulation, Vietnam, Kazakhstan, bilateral cooperation

Вьетнам мен Қазақстанның цифрлық экономикаларындағы дербес деректерді реттеу: имплементация мәселелері, киберқауіпсіздік тәуекелдері және екіжақты ынтымақтастық

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Андатпа. Мақалада екі дамушы ел – Вьетнам мен Қазақстандағы дербес деректерді құқықтық реттеудің жан-жақты салыстырмалы талдауы ұсынылған. Екі ел де электрондық коммерцияны дамытуда айтарлықтай прогреске қол жеткізді. Бұл жетістіктеріне қарамастан, аталмыш мемлекеттер бірқатар тәуекелдер мен қиындықтарға, әсіресе құқықтық реттеу саласындағы өзекті мәселелерге тап болды. Бұл мақалада екі елдегі электрондық коммерцияның ашық жүйесін құруға бағытталған соңғы заңнамалық бастамаларға баға беріледі және іс жүзінде кездесетін кейбір осалдықтар туралы айтылады. Мақалада талқыланған мәселелерді шешу мақсатында авторлар бірқатар ұсынымдар жасап, соның ішінде өзара ынтымақтастықты арттыру жолдарын саралайды.

Түйін сөздер: дербес деректер, цифрлық экономика, деректерді басқару, киберқауіпсіздік, құқықтық реттеу, Вьетнам, Қазақстан, екіжақты ынтымақтастық

Регулирование персональных данных в цифровых экономиках Вьетнама и Казахстана: проблемы имплементации, риски кибербезопасности и двустороннее сотрудничество

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Аннотация. В статье представлен всесторонний сравнительный анализ правового регулирования персональных данных в двух развивающихся странах – Вьетнаме и Казахстане. Обе страны демонстрируют значительный прогресс в развитии электронной коммерции. Несмотря на свои успехи, они сталкиваются с рядом рисков и вызовов, особенно в области правового регулирования. В данной статье дается оценка последних законодательных инициатив, направленных на построение прозрачной системы электронной коммерции, и освещаются некоторые уязвимости, с которыми можно столкнуться на практике. Чтобы смягчить остроту обсуждаемых проблем, авторы предлагают ряд решений, в том числе в области взаимного сотрудничества.

Ключевые слова: персональные данные, цифровая экономика, управление данными, кибербезопасность, правовое регулирование, Вьетнам, Казахстан, двустороннее сотрудничество

Introduction. It can be seen that the rapid development of the digital economy globally has turned personal data into an important production resource. In the world,

previous studies mainly focused on data protection under the GDPR standards or on legal analysis in each individual country, but no comprehensive research has specifically compared and deeply evaluated the personal data protection legal frameworks between Vietnam and Kazakhstan – two developing digital economies. This research gap creates a problematic situation, while opening opportunities for exploring the topic in a new context. The relevance of the topic is demonstrated by the theoretical and practical importance of personal data protection, as digital trust becomes a decisive factor for competitiveness, investment attraction and sustainable development in the digital economy.

Materials and methods. The study made extensive use of comparative legal analysis. The authors examined the laws of two countries, Vietnam and Kazakhstan, on personal data protection. They also conducted a comprehensive analysis of international treaties and other relevant documents. A quantitative approach was used to collect and analyze statistical data on data breach incidents.

Results and discussion. The article presents and critically discusses the main findings of the research concerning the protection of personal data subjects in the digital economy of Vietnam and Kazakhstan. Unlike previous studies that primarily focus either on the GDPR framework of European Union or on single-country legal analysis, this study adopts a comparative and interdisciplinary approach to examine two emerging digital economies that have received limited scholarly attention in the field of data governance.

Overview of personal data protection in the digital economy in Vietnam and Kazakhstan

Vietnam. Digital economy has emerged as a key driver of Vietnam's socio-economic development over the past decade. Supported by strong government commitment to digital transformation, Vietnam has witnessed rapid expansion across multiple digital sectors, including e-commerce, digital payments, fintech, digital platforms, and e-government services. According to VnExpress (2025a), In 2024, the digital economy grew at an estimated rate exceeding 20%, contributing approximately 18.3% of GDP and positioning Vietnam among the fastest-growing digital economies in Southeast Asia [1]. This growth has been supported by significant improvements in digital infrastructure and digital inclusion. Broadband connectivity, mobile internet coverage, and the gradual development of 5G networks have enhanced nationwide access to digital services. At the same time, the promotion of digital identity and digital public services has facilitated data integration across sectors such as healthcare, education, finance, and public administration, contributing to greater efficiency and service personalization.

In this context, personal data has become a central resource of the digital economy. Digital platforms, e-commerce operators, fintech companies, and state agencies increasingly rely on the collection, processing, and analysis of personal data to optimize services, enhance user experience, and support data-driven decision-making. Personal data thus plays a dual role: it is both an essential input for digital

economic growth and a subject of fundamental rights requiring effective legal protection.

However, the rapid expansion and increasing complexity of Vietnamese digital economy have also exposed significant challenges, creating growing pressure on existing legal, institutional and technical capacities, particularly with regard to personal data governance. First, the legal framework on personal data protection remains relatively new with gaps in implementation and enforcement, leading to legal uncertainty for digital service providers and limited effectiveness of safeguards for personal data subjects. Second, cybersecurity risks, data breaches, and digital fraud have increased, undermining trust in digital services as illustrated in Table 1.

Year	Total number of incidents	Online fraud	Data breaches	DDoS attacks
2022	11.200	5.600	3.100	2.500
2023	13.400	6.900	4.000	2.500
2024	15.800	8.200	5.100	2.500

Table 1. Statistics on Cybersecurity Incidents in Vietnam (2022–2024) [2]

Third, disparities in digital literacy and data protection awareness in Vietnam hinder individuals from effectively exercising their rights and managing personal data securely. According to research by Phan, Do, and Le, users' digital comprehension remains limited across multiple dimensions, despite over 42.62% demonstrating at least a basic level of understanding [3]. While respondents show relatively good awareness of personal data collection and use, significant gaps persist in policy-related knowledge, technical aspects, and data governance, with particularly low accuracy in understanding government policies. Overall, these challenges highlight that Vietnam's digital economy growth is accompanied by significant risks related to personal data governance. Addressing legal gaps, strengthening cybersecurity, and improving public awareness are therefore essential to ensure sustainable and trustworthy digital development.

For these reasons, Vietnam faces a pressing need to refine its legal and regulatory framework by learning from international experience. Comparative analysis of other developing digital economies, including Kazakhstan, can offer valuable insights into regulatory approaches, enforcement mechanisms, and pathways for harmonization with global standards.

Kazakhstan. The economy of the Republic of Kazakhstan has demonstrated significant growth in digitalization in recent years. This is clearly demonstrated by the development of the state e-government program, the emergence of large fintech companies such as *Kaspi* and *Freedom*, and the relocation of several well-known international IT companies to Kazakhstan. Major marketplaces such as *Wildberries*, *AliExpress*, and *Temu* have entered the Kazakhstan market, contributing to the overall growth of e-commerce.

The government is also making efforts to accelerate the digitalization of trade – the possibility of introducing electronic currency is being explored, and favorable legal conditions for the successful development of a digital business environment are being created. Significant developments included the adoption of the Law "On Digital Assets in the Republic of Kazakhstan" in 2023 and the "Digital Code" in early 2026. These legal acts have helped define a clearer framework for e-commerce.

Thanks to these efforts, the share of e-commerce in the domestic market in 2024 increased to 14.1% and now continues to grow. This figure is almost four times higher than in 2020.

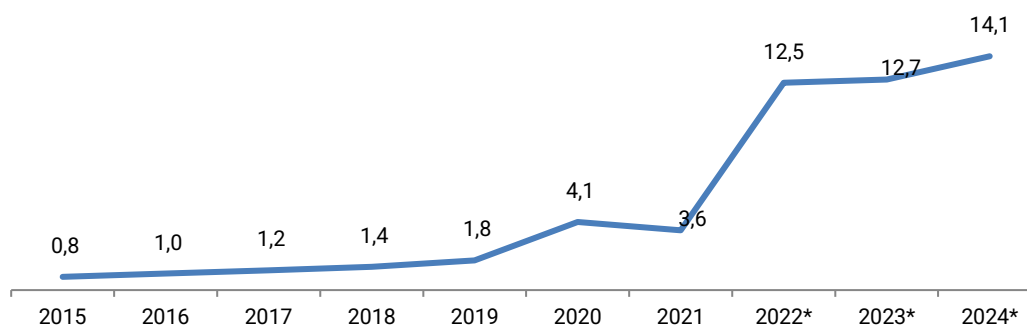


Diagram 1. The share of e-commerce in total retail trade in Kazakhstan [4]

In global rankings assessing the digital competitiveness of countries, Kazakhstan also performs well. However, over time, it has lost positions in some rankings, demonstrating the increasing level of digitalization worldwide [5]. In such a competitive environment, countries are encouraged to take more effective measures to develop the digital economy. In particular, policies aimed at increasing digital literacy and expanding broadband infrastructure should be a priority to maintain and accelerate economic growth [6].

Along with the rapid growth of the digital economy, the risk of crimes related to the leakage of personal data is unfortunately growing. One of the most pressing challenges of the current stage of digitalization has become the vulnerability of databases, leading to large-scale leaks of citizens' confidential personal information onto the global network. Compromises in the integrity and confidentiality of data not only undermine public trust in digital institutions but also create a fertile environment for the growth of cybercrime and financial fraud.

Statistics of information security incidents in recent years demonstrate alarming trends. A significant precedent was a series of major leaks recorded in 2024–2025. Specifically, in the spring of 2024, the databases of a large microfinance organization (zaimer.kz) became publicly accessible, affecting the personal data of over 2 million Kazakh citizens [7]. A similar leak occurred at several other microfinance organizations operating on the *Robo.finance* platform. The article notes that one of the companies affected by the leak was the Vietnamese microfinance organization «vietloan.vn». However, the most unprecedented incident was discovered later, when an archive with the working title "Residents of Kazakhstan 2024" was discovered online. This dataset, over 7 GB in size, contained over 16.3 million records, including

individual identification numbers, full names, residential addresses, and contact phone numbers [8]. Given the Kazakhstan's total population of approximately 20 million, this incident potentially affected the vast majority of the country's adult population.

The problem is exacerbated by the fact that many mobile operators collect excessive amounts of data without adequate cryptographic and organizational security measures. In response to these challenges, the government has initiated a number of protective mechanisms: a system for proactively notifying citizens about compromised data through the e-government portal (eGov) has been implemented, unscheduled inspections of businesses have been initiated, and penalties for the illegal circulation of personal information have been tightened. However, experience has shown that the existing personal data security architecture remains vulnerable to attackers and fraudsters. To comprehensively mitigate risks to Kazakhstan's digital economy, a large-scale transition to a preventative cybersecurity system is required, including legal mechanisms for protecting personal information, increasing digital literacy among the population, and toughening penalties for the illegal dissemination of personal data.

Common points in the impact of the digital economy on the need for personal data protection in both countries

The digital economies of Vietnam and Kazakhstan, while geographically distant, share striking similarities in how their rapid transformation has necessitated a fundamental shift in personal data protection. Both nations have transitioned from traditional economic models to data-driven ecosystems, where personal information has evolved from a private detail into a primary production resource.

The rapid expansion of the digital economy has fundamentally reshaped the regulatory landscape of personal data protection in both Vietnam and Kazakhstan, generating convergent pressures toward stronger legal safeguards while also exposing structural divergences rooted in governance models and regulatory maturity.

A significant common point is the dual role of personal data as both an economic catalyst and a vulnerability. In both countries, the rise of "super-apps" (such as *Zalo* in Vietnam or *Kaspi* in Kazakhstan) and the expansion of E-government services have centralized vast amounts of citizen data. While this integration has significantly improved service personalization and administrative efficiency, it has simultaneously created prime targets for cybercriminals. Both nations have experienced large-scale data breaches, such as the 2024 leaks in Kazakhstan's microfinance sector and similar vulnerabilities in Vietnam's retail and fintech sectors [9], which have turned data protection from a technical preference into a matter of national security and public trust.

Furthermore, both Vietnam and Kazakhstan face a regulatory-technological gap. The pace of digital innovation in e-commerce, AI-driven credit scoring, and IoT-enabled smart cities has consistently outstripped the development of comprehensive legal frameworks. Consequently, both governments have recently moved toward codification as a solution. Vietnam's Law on Personal Data Protection (2025) and Kazakhstan's Digital Code (2026) both reflect a shared objective: to move away from

fragmented, sector-specific regulations toward a unified, modern standard that mirrors international benchmarks like the GDPR.

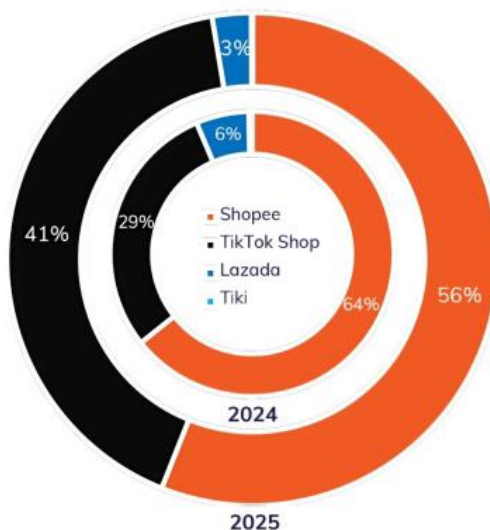
Lastly, there is a common societal challenge regarding digital literacy. In both countries, a large percentage of users demonstrate basic digital skills but lack deep awareness of data sovereignty, which is considered as the right to control how their information is harvested and traded by intermediaries. This disparity in awareness creates a lopsided ecosystem where digital platforms hold immense power over individual users. Therefore, in both Vietnam and Kazakhstan, the impact of the digital economy has made digital trust the decisive factor for future competitiveness. Both nations increasingly recognize that without a robust and transparent data governance regime, sustainable growth will be stifled by escalating cybersecurity threats and a deficit in public confidence.

It can be seen that the digital economy acts as both a catalyst for convergence and a source of divergence: while it compels both Vietnam and Kazakhstan to strengthen personal data protection regimes, it simultaneously accentuates differences in regulatory philosophy, institutional capacity, and the balance between economic openness and state control.

Practical implementation of the law on protecting the rights of personal data subjects in the digital economy in Vietnam and Kazakhstan

Vietnam. The practical implementation of legal provisions on protecting the rights of data subjects in Vietnam's digital economy can be observed through the privacy and security policies of corporations and companies, which reflect the level of compliance with legal requirements on personal data protection.

In the field of e-commerce, the privacy policy of Shopee can be taken as a representative example, as it currently holds a dominant market share in Vietnam.



Market share distribution of e-commerce platforms in Vietnam, 2024 – 2025 [10]

Shopee's privacy policy addresses three fundamental aspects of data processing, namely: what data is collected, when it is collected, and for what purposes it is processed. In other words, the company discloses the most basic elements of its data

processing activities, enabling users to gain a general understanding of how their personal data is handled. In addition, Shopee specifies certain circumstances under which the rights of data subjects may be restricted, as provided in Paragraph 7.3 of its policy. However, this company does not include a separate and explicit section on the rights of data subjects; instead, they are only indirectly reflected throughout the policy (for instance, Paragraph 13). Furthermore, Shopee has not publicly disclosed detailed procedures regarding data storage, data protection measures, or data processing impact assessments, particularly in cases involving cross-border data transfers or non-consensual processing. Notably, the provisions on cross-border data transfers in Paragraph 12 remain unclear, as they provide only minimal information. These limitations may increase the risk of insufficient transparency and undermine effective protection of data subjects' rights.

In the fintech sector, the policy on personal data protection and processing of the Joint Stock Commercial Bank for Investment and Development of Vietnam (BIDV) provides another illustrative example. In general, BIDV's policy is relatively comprehensive. It clearly identifies the entities involved in personal data processing (Paragraphs 1.6 to 1.9) and specifies the rights and obligations of data subjects in Paragraph 7.1.1. Moreover, the policy outlines the circumstances in which data subjects' rights may be restricted (Paragraphs 8.4 and 8.5), demonstrating compliance with current legal regulations. Importantly, the policy also describes a relatively complete personal data processing procedure in Paragraph 4, thereby enabling users to better understand how their data is handled [11]. However, the most recent update of this policy dates back to 2024, whereas the Law on Personal Data Protection has come into force in 2026. This indicates that, despite its relative completeness, the policy has not yet incorporated several new legal requirements. For example, it does not specify the obligation to notify competent authorities and data subjects in the event of personal data breaches, as required under Article 27(1) of the Law on Personal Data Protection and Article 8(3) of Decree No. 356/2025/ND-CP. In addition, the policy does not clearly define the information that must be provided to users when obtaining their consent for data processing. These shortcomings suggest the need for further revision and improvement in the future.

In conclusion, although corporate privacy policies in Vietnam have reached a certain level of completeness, they have not yet fully incorporated the latest legal requirements. Moreover, as the law does not mandate full public disclosure of all data processing procedures, there remains a risk of insufficient transparency in personal data processing activities.

Difficulties and requirements for improving the law on protecting the rights of personal data subjects in the digital economy in Vietnam.

From a legal perspective, Article 19(2) of the Law on Personal Data Protection grants enterprises the autonomy to establish their own internal monitoring mechanisms for personal data processing. However, this provision does not set out specific criteria regarding the content, standards, or operational procedures of such mechanisms, nor does it impose any obligation of public disclosure. As a result, enterprises are free to

design these mechanisms at their discretion, leading to inconsistencies in implementation and difficulties in assessing compliance. In the context of the digital economy, where data processing activities are complex, large-scale, and often cross-border, the lack of transparency places data subjects in a passive position. They are not provided with sufficient information to effectively monitor how their data is handled or to exercise their rights, such as the right to be informed, the right of access, or the right to object to data processing.

From practical perspective, as previously discussed, many enterprises have not proactively disclosed their data processing impact assessment (DPIA) mechanisms or the specific data protection measures tailored to their services. In addition, the delayed incorporation of newly enacted legal provisions into corporate policies highlights a gap between the legal framework and its practical implementation. This gap has direct implications for data subjects: they are unable to assess the level of protection afforded to their personal data, remain unaware of the scope and purposes of data processing, and may encounter obstacles when attempting to exercise their legal rights. In the long term, such limitations not only undermine the effectiveness of personal data protection but also erode user trust in digital platforms, an essential foundation of the digital economy.

In response to these challenges, the government has initiated several measures to enhance the effectiveness of legal enforcement. These include organizing specialized training programs and professional development activities on personal data protection for enterprises and relevant stakeholders. At the same time, efforts have been made to develop guidance materials, promote legal awareness, and strengthen public communication [12]. These initiatives aim to bridge the gap between legal provisions and practical implementation, thereby improving the protection of data subjects' rights in the digital environment.

Kazakhstan. The primary law in the field of personal data protection in Kazakhstan is the Law of the Republic of Kazakhstan dated May 21, 2013, "On Personal Data and Its Protection." This law defines the concept of "personal data protection." According to paragraph 11 of Article 1 of the law, personal data protection is a set of measures, including legal, organizational, and technical ones, implemented for the purposes established by this law [13].

For ease of understanding by the reader, the personal data protection measures provided for in the Law can be divided into several categories:

The first category is technical and organizational requirements. Article 22 sets forth the obligations of the owner or operator, who must take all measures to: 1) prevent unauthorized access to personal data; 2) promptly detect instances of unauthorized access to personal data if such unauthorized access could not be prevented; 3) minimize the adverse consequences of unauthorized access to personal data; 4) provide the state technical service with access to information technology facilities to conduct security assessments of the storage, processing, and dissemination of restricted personal data; 5) register and maintain records of the above actions.

Secondly, the law (Article 12) requires the storage of personal data by the owner and operator, as well as by a third party, in a database located in the Republic of Kazakhstan.

The next category of measures is aimed at promptly informing both citizens and the authorized body about leaks and potential risks.

It is also important to note that the law defines the conditions under which and according to the legal principles that personal data must be collected. For example, according to Article 7 of the Law, the collection and processing of personal data must be limited to achieving specific, predetermined, and legitimate purposes, and if the content and volume of information is excessive in relation to the purposes of its processing, this will constitute a violation. Article 8 regulates the procedure for granting (or revoking) a subject's consent to the collection and processing of personal data.

Finally, the state must play a central role in all of this, acting as a regulator. The authorized body is empowered to conduct periodic and unscheduled inspections of businesses and government agencies to ensure compliance with cybersecurity requirements and data processing rules. Failure to comply with these requirements entails strict administrative and, in severe cases, criminal liability.

The Law of the Republic of Kazakhstan dated November 24, 2015, "On Informatization" largely replicates the content of the Law "On Personal Data" in terms of ensuring the security of personal data, although the law itself is aimed at regulating public relations in the field of informatization. The law stipulates the terms of information use for the development of ICT, e-government, and other tools that facilitate the growth of automation and digitalization in the country. Unlike the first law, it addresses not only the protection of personal data but also the country's cybersecurity as a whole. Some believe that this law will soon be transformed into the Law "On Cybersecurity" [14].

The adoption of the Digital Code in early 2026 marked another step toward the digitalization of public relations in the country. The Code contains a number of articles regulating the use of personal data. For example, according to Article 41, citizens of Kazakhstan have the right to delete, anonymize, and limit the processing of their personal data [15].

Along with the rights and obligations of personal data subjects, it is worth paying attention to the issue of liability for violating Kazakhstan's legislation on personal data protection. According to Article 79 of the Code of the Republic of Kazakhstan "On Administrative Infractions", the following violations of the law on personal data protection are established (if the act does not constitute a crime):

- 1) illegal collection and/or processing of personal data committed by the owner, operator, or third party using their official position;
- 2) failure by the owner, operator, or third party to comply with measures to protect personal data;

may entail fines ranging from 20 to 1,000 MCI (Monthly Calculation Index), depending on the category of the business entity and the qualifying elements of the administrative offense.

Article 211 of the Criminal Code of the Republic of Kazakhstan provides for criminal penalties for the unauthorized distribution of electronic information resources containing citizens' personal data or other information, access to which is restricted by the laws of the Republic of Kazakhstan or by their owner or possessor. Penalties, depending on the severity of the offense, include: a fine of 200 MCI; correctional labor; community service for up to 1,200 hours; arrest for up to 15 days; deprivation of the right to hold certain positions or engage in certain activities for up to five years; restriction of freedom for up to five years; and imprisonment for up to seven years [16].

Overall, Kazakhstan's economy is confidently moving toward digitalization. Legislators are striving to keep pace with technological progress. Laws adopted in recent years demonstrate Kazakhstan's readiness for fundamental changes aimed at developing the digital economy.

Kazakhstan, in our opinion, should become a party to the Convention No. 108 on the Protection of Personal Data of January 1, 1985, as well as Protocol No. 223 of October 10, 2018. Thus, we would gain additional international experience in the protection and protection of personal data of citizens of the Republic of Kazakhstan. We need this because personal data often becomes public, despite the lack of consent from Kazakhstani citizens. Cybercriminals use these circumstances to commit seizures of billions of dollars of citizens of the republic. Penalties for cybercrimes should be tightened. It seems that the judicial proceedings in every criminal case involving cybercriminals should be public: thus, the citizens of the country will massively learn how to resist the fraudulent actions of cybercriminals, they will know in advance how to prevent these scammers from accessing their codes, personal data, no matter what tricks they may resort to.

It makes sense that it would be desirable to develop and adopt a similar Convention on the protection of personal Data within the CIS, which would also strengthen the cybersecurity of citizens of our region, including the Republic of Kazakhstan. Such a Convention can be adopted on the basis of the model law "On Personal Data", which was approved by a resolution at the 14th plenary session of the Interparliamentary Assembly of the CIS Member States on October 16, 1999, in which the term "personal data" means information about a person posted on a tangible medium that is reliably identified with a specific person." [17].

Resolutions of a recommendatory nature on personal data issues are being adopted at the UN level, for example, UN General Assembly Resolution No. 73/179 of December 17, 2018 "The right to privacy in the digital age" was adopted <https://undocs.org/ru/A/RES/73/179> (date of access: 04/21/2026). But such documents are binding. Therefore, it is necessary to adopt an appropriate Convention on these issues at the UN level and under the auspices of the United Nations. Kazakhstan could act as the initiator of the development and adoption of a universal multilateral convention on the protection of personal data of citizens. In this regard, it would be

advisable to use and expand the provisions of article 36 of the UN Convention against Cybercrime, European international legal acts on personal data in order to develop a separate international-legal act aimed at protecting personal data on a global scale. Such a convention is also necessary because cyber-attacks on confidential data of government organizations and business institutions, as well as citizens, have become more frequent in recent years [18, p. 28].

Legal Challenges in Bilateral Digital Economic Cooperation

Although Vietnam and Kazakhstan have made substantial progress in developing their digital economies, several legal challenges continue to hinder deeper bilateral digital economic cooperation.

First, differences in legal terminology, regulatory approaches, and compliance requirements create legal uncertainty for enterprises operating across jurisdictions. Variations in consent procedures, cross-border data transfer requirements, and data localization obligations increase compliance costs and administrative burdens for businesses engaged in digital trade, e-commerce, and fintech activities.

Second, both countries lack a bilateral legal framework specifically governing cross-border data governance and mutual recognition of personal data protection standards. The absence of interoperable legal mechanisms complicates international data transfers and reduces legal certainty for digital service providers.

Third, enforcement challenges remain significant in the digital environment. Personal data violations frequently involve cross-border digital activities that exceed the territorial jurisdiction of national authorities. In practice, limitations relating to evidence collection, international cooperation, and the recognition of foreign enforcement measures reduce the effectiveness of legal protection for personal data subjects.

Another challenge concerns digital literacy and public awareness. Many individuals remain insufficiently informed about their rights relating to personal data protection, thereby limiting their ability to effectively monitor and control how their information is collected, processed, and transferred in the digital economy.

Finally, tensions between national sovereignty and the free flow of information continue to influence the regulatory policies of both countries. While Vietnam places stronger emphasis on state supervision and data localization, Kazakhstan demonstrates relatively greater openness toward international digital integration. These differences may complicate efforts to establish harmonized legal standards for bilateral digital cooperation.

Proposed Legal harmonization solutions between the two countries

To strengthen personal data protection and promote sustainable digital economic cooperation, Vietnam and Kazakhstan should gradually harmonize their legal frameworks in accordance with international standards and practical digital governance needs.

First, the two countries should establish bilateral cooperation mechanisms relating to cybersecurity and personal data governance. Such mechanisms may include

information-sharing systems, joint policy dialogues, and mutual legal assistance in investigating cross-border data violations and cybercrime.

Second, both countries should develop interoperable legal standards governing cross-border data transfers. In particular, clearer and more transparent rules concerning consent, data processing obligations, breach notification, and accountability mechanisms should be introduced to reduce legal uncertainty for businesses and individuals.

Third, Vietnam and Kazakhstan should strengthen institutional capacity and enforcement effectiveness through specialized supervisory authorities, professional training programs, and clearer compliance guidance for enterprises operating in the digital economy.

Fourth, legal harmonization efforts should prioritize internationally recognized principles such as accountability, transparency, proportionality, and data security. Aligning domestic legislation more closely with frameworks such as the GDPR, OECD Privacy Guidelines, and APEC Privacy Framework would facilitate digital trade while ensuring adequate protection for personal data subjects.

Finally, both countries should promote digital literacy and public awareness programs in order to improve understanding of personal data rights and strengthen digital trust among citizens and businesses.

Recommendations for Applying International Standards and Data Protection Mechanisms in the Digital Economy

Vietnam and Kazakhstan should continue modernizing their personal data protection regimes in line with international best practices while adapting them to domestic socio-economic conditions.

First, greater emphasis should be placed on accountability mechanisms. Enterprises processing personal data should not only comply with legal obligations but also demonstrate compliance through internal monitoring systems, transparent policies, and data processing impact assessments.

Second, transparency obligations should be strengthened in sectors involving large-scale personal data processing, particularly e-commerce, fintech, digital advertising, and online platforms. Individuals should be clearly informed about the scope, purpose, duration, and risks of data processing activities.

Third, cross-border data transfer mechanisms should be improved through contractual safeguards, certification systems, and international cooperation frameworks aimed at facilitating secure digital trade and data governance interoperability.

Fourth, governments should enhance enforcement effectiveness by increasing administrative and criminal sanctions for serious violations, strengthening cybersecurity systems, and improving international cooperation against cybercrime and unlawful exploitation of personal data.

Finally, both countries should invest in long-term digital literacy programs, cybersecurity education, and professional capacity-building in order to create a sustainable and trustworthy digital environment.

Conclusion. The findings of this study have important implications for both legal policy and digital economic governance. Strengthening personal data protection is essential not only for safeguarding privacy rights but also for maintaining public trust, promoting innovation, and ensuring sustainable digital economic growth.

For Vietnam and Kazakhstan, closer legal harmonization and stronger international cooperation in personal data governance would facilitate cross-border digital trade, improve legal certainty for businesses, and enhance the effectiveness of cybersecurity and privacy protection mechanisms.

More broadly, the study demonstrates that personal data protection in emerging digital economies should not be viewed solely as a privacy issue, but also as a matter of digital sovereignty, economic competitiveness, and transnational governance in the digital era. Effective and transparent data governance frameworks will therefore play an increasingly important role in shaping the future of bilateral digital economic cooperation between Vietnam and Kazakhstan.

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Authors' contributions

The article was written by authors from Kazakhstan and Vietnam.

1) Marat Sarsembayev analyzed Kazakhstani legislation, reviewed international documents on personal data protection, and proposed measures to improve Kazakhstani legislation.

2) Trang Ly Hoang analyzed Vietnamese legislation, developed the research methodology, and put forward proposals to improve the harmonization of the two jurisdictions.

3) Anh Thu Nguyen reviewed and compiled the statistical data presented in the work and analyzed Vietnamese legislation for compliance with international standards.

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**Personal data protection in emerging digital economies:
regulatory convergence and divergence between Vietnam and Kazakhstan
under international data governance standards**

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Abstract. As Vietnam and Kazakhstan deepen their cooperation in trade, investment, and digital transformation, the protection of personal data has become an important legal prerequisite for building digital trust and facilitating cross-border data flows. This article examines and compares the legal frameworks governing personal data protection in the two countries in light of international standards, including the GDPR, the OECD Privacy Guidelines, and the APEC Privacy Framework. Significant differences remain between the two countries in terms of regulatory measures. Vietnam has developed a more comprehensive and rights-oriented framework, whereas Kazakhstan places greater emphasis on data sovereignty and localization. The article argues that stronger accountability mechanisms, improved enforcement, and greater regulatory harmonization are necessary to enhance digital trust and support sustainable digital economic cooperation between the two countries.

Keywords: personal data protection, data subject rights, digital economy, Vietnam, Kazakhstan, comparative law.

**Дамушы цифрлық экономикалардағы жеке деректерді қорғау:
деректерді басқарудың халықаралық стандарттары аясындағы Вьетнам
мен Қазақстан арасындағы реттеу мәселесіндегі ұқсастық пен
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Андатпа. Вьетнам мен Қазақстан сауда, инвестиция және цифрлық трансформация саласындағы ынтымақтастығын арттырумен жеке деректерді қорғау мәселесі цифрлық сенімділікті орнықтыру және трансшекаралық деректер ағындарын оңтайландыру үшін маңызды құқықтық алғышартқа айналды. Бұл мақалада екі елдегі жеке деректерді қорғау ісі халықаралық стандарттар, оның ішінде GDPR, ЭЫДҰ нұсқаулары мен АРЕС ережелері тұрғысынан қарастырылады. Екі ел арасында реттеу шаралары тұрғысынан айтарлықтай айырмашылықтар сақталуда. Вьетнам кешенді және құқыққа бағытталған шеңберді әзірледі, ал Қазақстан деректердің егемендігі мен локализациясына көбірек көңіл бөледі. Мақалада екі ел арасындағы цифрлық сенімді нығайту және тұрақты цифрлық экономикалық ынтымақтастықты қолдау үшін есеп беру механизмдерін, құқық қорғау және нормативтік үйлестіруді күшейту қажет деп тұжырымдалады.

Түйін сөздер: жеке деректерді қорғау, деректер субъектілерінің құқықтары, цифрлық экономика, Вьетнам, Қазақстан, салыстырмалы құқық.

**Защита персональных данных в развивающихся цифровых
экономиках: схожести и различия регулирования между Вьетнамом и
Казахстаном в рамках международных стандартов управления данными**

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Аннотация. По мере углубления сотрудничества Вьетнама и Казахстана в сфере торговли, инвестиций и цифровой трансформации защита персональных данных стала важной правовой предпосылкой для построения цифрового доверия и облегчения трансграничных потоков данных. В данной статье рассматриваются и сравниваются правовые рамки, регулирующие защиту персональных данных в двух странах, в свете международных стандартов, включая GDPR, Руководящие принципы ОЭСР по защите конфиденциальности и Рамочную программу АТЭС по защите конфиденциальности. Между двумя странами сохраняются существенные различия в отношении нормативных мер. Вьетнам разработал более всеобъемлющую и ориентированную на права человека систему правового регулирования, в то время как Казахстан уделяет больше внимания суверенитету данных и локализации. В статье рассматриваются меры повышения цифрового доверия и поддержки устойчивого цифрового экономического сотрудничества между двумя странами.

Ключевые слова: защита персональных данных, права субъектов данных, цифровая экономика, Вьетнам, Казахстан, сравнительное право.

Introduction

In the digital economy, personal data is processed across various models, ranging from digital platforms, the sharing economy, e-commerce - digital advertising, fintech, digital government, and smart cities to the data economy models, creating a large and complex ecosystem. Digital platforms and the sharing economies collect behavioral, location and transaction data to optimize services, but come with the risk of abuse, tracking and information leakage. E-commerce and digital advertising process data via cookies and device identification to personalize advertising but easily lead to excessive collection and sharing of data through multiple intermediaries. In digital finance (fintech), sensitive data such as identification and transactions are analyzed by AI to assess creditworthiness, but there is a potential risk of account loss or identity theft. Digital governments store and integrate large amounts of citizen data to improve public services, but weak security could result in large-scale data leakage. At the same time, IoT (Internet of Things) and smart cities use data from sensors and connected devices, bringing convenience but increasing the risk of cyber-attacks and invasion of privacy. Finally, in the data economy model, personal data becomes an asset for analysis and transaction, and while it holds economic value, it constantly faces the risk of re-identification and legal conflicts when transferred across borders.

The object of the study is the legal system and the mechanism for enforcing regulations on personal data protection in Vietnam and Kazakhstan. The research theme focuses on the degree of compatibility and potential for harmonization between these two legal systems and international standards. The goal of the research is to demonstrate that establishing a transparent, modern framework for personal data protection consistent with international practice will contribute to enhancing data governance efficiency, reinforcing user trust, and promoting digital economic cooperation between the two nations. It hypothesizes that while the legal frameworks of both countries have made significant progress, a gap remains compared to international standards, necessitating more harmonized and practical solutions.

Research gap and research questions. Personal data protection has become a central issue in contemporary digital law scholarship. Issues such as data subject rights, cross-border data flows, accountability mechanisms and data governance challenges in the digital economy have been addressed in detail in other studies. At the international level, significant attention has also been devoted to the regulatory influence of the GDPR, the OECD Privacy Guidelines, and the APEC Privacy Framework.

Despite this growing body of literature, comparative research between Southeast Asian and Central Asian jurisdictions remains limited. In particular, the protection of personal data subjects in Vietnam and Kazakhstan has received little scholarly attention, notwithstanding both countries' ongoing digital transformation, expanding digital economies, and increasing engagement with international data governance standards. Moreover, existing studies tend to assess individual legal systems separately, while insufficient attention has been paid to how emerging digital economies adapt and localize international data protection principles within different institutional and governance contexts.

Against this background, this article conducts a comparative analysis of the legal frameworks governing the protection of personal data subjects in Vietnam and Kazakhstan in light of international standards. The study addresses three research questions: (i) To what extent are the legal frameworks of Vietnam and Kazakhstan compatible with international standards on personal data protection? (ii) What are the principal similarities and differences in the protection of data subject rights and related enforcement mechanisms? and (iii) What legal reforms are necessary to enhance regulatory harmonization, digital trust, and digital economic cooperation between the two jurisdictions?

Beyond a descriptive comparison, the article argues that Vietnam and Kazakhstan represent two distinct approaches to adapting international data protection standards, reflecting different governance priorities and regulatory strategies in emerging digital economies.

Materials and methods

This research employs a comparative legal research methodology combined with an interdisciplinary approach grounded in digital economy theory, data governance, and international human rights standards. The study primarily focuses on examining

the legal frameworks governing the protection of personal data subjects in Vietnam and Kazakhstan within the context of rapid digital economic transformation.

The research materials consist of domestic legal instruments, international legal frameworks, academic literature, institutional reports, and policy documents. The primary domestic sources include the 2025 Law on Personal Data Protection of Vietnam, Decree No. 356/2025/NĐ-CP, the Constitution of Vietnam 2013, the Civil Code of Vietnam 2015, the Law of the Republic of Kazakhstan “On Personal Data and Their Protection” (2013), the Law “On Informatization” (2015), the Digital Code of Kazakhstan (2026), and relevant constitutional and criminal law provisions. International materials include the General Data Protection Regulation (GDPR), the OECD Privacy Guidelines, the APEC Privacy Framework, and the United Nations Convention against Cybercrime 2024.

The study applies several research methods. First, the doctrinal legal analysis method is used to examine legal principles, rights of data subjects, obligations of data processors, enforcement mechanisms, and limitations on personal data processing in both jurisdictions. Second, the comparative method is employed to identify similarities, differences, and levels of compatibility between the Vietnamese and Kazakhstani legal systems and international standards. Third, a policy-analysis approach is adopted to assess the practical implementation of personal data protection through selected examples from digital platforms, fintech institutions, and e-commerce enterprises.

In addition, the research incorporates qualitative analysis of practical cases relating to data breaches, cybersecurity incidents, and digital governance challenges in order to evaluate the effectiveness of current legal mechanisms in practice. The study also considers broader socio-economic and institutional factors influencing the development of personal data protection frameworks in emerging digital economies.

The scope of the research is limited to issues relating to personal data protection in the digital economy and does not comprehensively address broader cybersecurity or national defense regulations, except where such issues directly affect the rights of personal data subjects.

Results and discussion

Unlike previous studies that primarily focus either on the European Union’s GDPR framework or on single-country legal analysis, this study adopts a comparative and interdisciplinary approach to examine two emerging digital economies that have received limited scholarly attention in the field of data governance.

The analysis highlights how rapid digital transformation has reshaped the legal understanding of personal data from a private informational interest into a strategic economic and governance resource. In this context, the study explores the interaction between international legal standards, domestic regulatory reforms, and practical implementation challenges in both countries. Particular attention is paid to the convergence and divergence of the legal frameworks of Vietnam and Kazakhstan in relation to international principles such as the GDPR, the OECD Privacy Guidelines, and the APEC Privacy Framework.

The research results demonstrate that, while both countries are moving toward stronger personal data protection regimes, their regulatory approaches differ significantly in terms of institutional structure, enforcement mechanisms, state involvement, and the balance between data sovereignty and the free flow of information. Through the comparative analysis method, the study contributes to the broader academic debate on data governance in developing digital economies and offers policy-oriented recommendations aimed at strengthening legal harmonization, digital trust, and bilateral digital economic cooperation between Vietnam and Kazakhstan.

International legal regulation of the protection of the rights of personal data subjects in the digital economy

Foundational international instruments, including the Universal Declaration of Human Rights (1948), the European Convention on Human Rights (1950), and the International Covenant on Civil and Political Rights (1966), recognize the importance of privacy and the protection of individuals against unlawful interference with their private lives. These principles provide the normative basis for the development of modern personal data protection regimes. In contemporary digital governance, personal data protection is increasingly regarded not merely as an extension of the right to privacy but as an autonomous legal interest requiring distinct regulatory safeguards, accountability mechanisms, and cross-border governance frameworks [1].

At the international level, several specialized instruments have established standards for the protection of personal data. One of the earliest and most influential is the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108), which entered into force in 1985. The Convention introduced key principles governing the lawful processing of personal data and was significantly modernized through Protocol No. 223 in 2018 to address challenges arising from digitalization, artificial intelligence, and cross-border data processing [2].

Another influential instrument is the European Union's General Data Protection Regulation (GDPR), which has become a global benchmark for personal data protection. The GDPR establishes a comprehensive framework based on principles such as lawfulness, transparency, purpose limitation, accountability, and data security. It also recognizes a wide range of data subject rights, including the rights of access, rectification, erasure, data portability, and notification in the event of data breaches. Beyond the European Union, the GDPR has significantly influenced legislative reforms in many jurisdictions [3].

In addition, the OECD Privacy Guidelines provide an important framework for balancing privacy protection with the free flow of information across borders. Although not legally binding, the Guidelines have played a significant role in shaping national data protection policies and promoting international cooperation in cross-border data governance [4].

A further regional framework is the APEC Privacy Framework, which adopts a business-oriented and trade-facilitating approach to personal information protection.

Unlike the GDPR, which places data subjects at the center of the regulatory framework, the APEC model focuses on organizational accountability and the promotion of cross-border data flows. Nevertheless, it recognizes core rights such as notice, choice, access and correction, security safeguards, and remedies, while seeking to balance privacy protection with digital commerce [5].

More recently, the United Nations Convention against Cybercrime (2024) has reinforced the international legal framework by recognizing the importance of personal data protection in international cooperation against cybercrime. Article 36 of the Convention requires that the transfer of personal data be conducted in accordance with domestic law and applicable international obligations relating to personal data protection. The Convention therefore reflects the growing recognition that effective cybersecurity and personal data protection are mutually reinforcing objectives in the digital age [6].

Taken together, Convention 108+, the GDPR, the OECD Privacy Guidelines, the APEC Privacy Framework, and the UN Convention against Cybercrime constitute the principal international standards relevant to personal data protection. These instruments provide the analytical benchmark for assessing the legal frameworks of Vietnam and Kazakhstan in this study [7].

The impact of international standards on the policies of Vietnam and Kazakhstan

The impact of the international legal framework on personal data protection in Vietnam and Kazakhstan is a profound example of regulatory transplanting within the digital economy. As both nations transition into data-driven ecosystems, they have increasingly looked toward global benchmarks, most notably the GDPR, the APEC Privacy Framework, and the OECD Guidelines, to bridge the gap between rapid technological innovation and legislative oversight, that allow these nations to participate in global trade while safeguarding the fundamental rights of their citizens.

The GDPR, as the gold standard of data sovereignty, has significantly influenced the architecture of Vietnam's Decree 13/2023 and the subsequent Law on Personal Data Protection (2025). By adopting GDPR principles such as purpose limitation, data minimization, and the requirement for explicit consent, Vietnam has elevated the status of the data subject from a passive participant to an active controller of their digital identity. This alignment is not only an academic exercise but also a strategic economic necessity. In the digital economy, adherence to international standards reduces friction in cross-border trade and fosters digital trust, which is essential for attracting foreign direct investment (FDI) from tech giants accustomed to high compliance environments. In Kazakhstan, the influence of the GDPR is most visible within the Astana International Financial Centre (AIFC). By adopting GDPR regulations, the AIFC ensures that international investors and data subjects interact within a privacy safe environment.

The APEC Privacy Framework has been instrumental in shaping how Vietnam and Kazakhstan handle the movement of data across borders in the modern digital economy. Vietnam, as an APEC member, has integrated the accountability and

preventing harm principles into the 2026 Personal Data Protection Law. Kazakhstan, while not an APEC member, has observed these regional trends to refine its own cross-border mechanisms, that facilitates smoother integration into the global digital economy.

The OECD Guidelines have served as a critical normative benchmark for both Vietnam and Kazakhstan. For Vietnam, the OECD's accountability principle is the cornerstone of the 2026 Law on Personal Data Protection, which mandates that organizations demonstrate compliance through compulsory data protection impact assessments. Similarly, OECD Guidelines have provided a pragmatic roadmap for Kazakhstan as it develops its Digital Code.

However, the impact of these frameworks is often mediated by national interests. In Vietnam, international norms are integrated with a strong emphasis on data localization and national security, creating a stringent compliance regime, while Kazakhstan is relatively more permissive stance. The international legal framework acts as a gravitational force, pulling both nations toward unified standards that protects data subjects while providing the legal certainty required for a competitive, globalized digital economy that create a prerequisite for sustainable economic growth.

Legal Framework for Protecting the Rights of Personal Data Subjects and Implementation Practices in Vietnam

Fundamental Regulations. In Vietnam, rights relating to personal data are implicitly recognized in Article 21 of the 2013 Constitution, which guarantees the inviolability of private life, personal and family secrets, and the confidentiality of personal information [8]. These constitutional guarantees are further specified in Article 38 of the 2015 Civil Code, which affirms the right to privacy and explicitly requires an individual's consent for the collection, storage, use, and disclosure of information concerning private life, personal secrets, and family secrets. At the same time, both the Constitution and the Civil Code impose corresponding obligations on other subjects to respect and protect these rights and to refrain from unlawful interference [9].

Beyond constitutional and civil law protections, personal data protection in Vietnam is also embedded within a broader framework of cybersecurity and digital governance. The Law on Cybersecurity 2018 imposes obligations on domestic and foreign organizations providing services in cyberspace to ensure information security, prevent cyber threats, and cooperate with competent authorities in safeguarding national cybersecurity interests. Although the Law on Cybersecurity is not a dedicated personal data protection statute, it plays an important role in regulating the collection, storage, transmission, and protection of information in cyberspace [10]. Consequently, Vietnam's legal framework for personal data protection should be understood as a multi-layered system consisting of constitutional guarantees, civil law remedies, cybersecurity safeguards, and specialized personal data protection legislation.

The mechanisms for protecting the rights of personal data subjects are prescribed indirectly, primarily through the Civil Code 2015, which provides a general framework for the protection of civil rights, including those related to personal data. Articles 11 to

15 of the Civil Code establish various methods for protecting civil rights. These methods may be divided into two groups. The first consists of self-protection measures, allowing individuals to take necessary actions to protect their lawful rights and interests, provided that such measures are proportionate and consistent with the fundamental principles of civil law. The second consists of remedies through competent authorities and organizations, including judicial protection by the courts. Importantly, Vietnamese courts are not permitted to refuse to adjudicate a civil dispute merely because there is no directly applicable legal provision, thereby providing an additional safeguard for emerging rights relating to personal data [9].

Another important mechanism concerns the lawful limitation of rights. Pursuant to Article 14(2) of the Constitution and Article 2(2) of the Civil Code, human rights and civil rights, including rights relating to personal data, may be restricted only by law and only where necessary for reasons of national defense, national security, social order and safety, social morality, or community well-being.

In conclusion, Vietnam has developed a multi-layered legal framework for the protection of personal data. At the constitutional level, privacy and personal information are recognized as fundamental rights. At the civil law level, individuals are provided with legal remedies and mechanisms for the protection of their lawful interests. At the cybersecurity level, the Law on Cybersecurity establishes safeguards relating to information security and national cybersecurity. These foundations have subsequently supported the development of a specialized personal data protection regime.

General and Specific Provisions. The primary legal instruments governing personal data protection in Vietnam are the Law on Personal Data Protection No. 91/2025/QH15 and Decree No. 356/2025/ND-CP, which provides detailed provisions for its implementation. According to Article 2(4) of the Law, personal data protection refers to the use of measures, resources, and mechanisms by agencies, organizations, and individuals to prevent and address infringements of personal data [11].

A notable feature of the 2025 Law is its explicit recognition of the rights of personal data subjects. Article 4 grants individuals a broad range of rights, including the right to be informed of data processing activities, the right to consent and withdraw consent, the right to access and rectify personal data, the right to request deletion or restriction of processing, the right to object to processing, and the right to seek remedies through complaints, litigation, and compensation mechanisms. These rights significantly strengthen individual control over personal data and reflect Vietnam's increasing convergence with internationally recognized data protection standards.

Cross-border data transfers constitute another important component of the Vietnamese framework. Article 20 of the Law recognizes the legality of cross-border transfers of personal data, while Decree No. 356/2025/ND-CP establishes detailed requirements regarding transfer agreements, security measures, risk assessments, and transfer impact assessment reports. Organizations transferring personal data abroad must evaluate risks associated with overseas processing, identify mitigation measures, and maintain documentation for regulatory review. Additional safeguards, including

encryption, anonymization, and physical security measures, are required when transferring sensitive personal data [11].

The Law further regulates personal data protection in specific sectors closely associated with the digital economy, including finance, banking, credit, advertising services, online communication services, and biometric data processing. These sector-specific provisions generally combine general data protection obligations with additional safeguards tailored to the characteristics and risks of particular activities.

To ensure effective implementation, the Law and its implementing Decree establish several enforcement mechanisms. Organizations are required to maintain compliance programs, monitor non-consensual processing activities, conduct impact assessments, and cooperate with supervisory authorities. Furthermore, Decree No. 356/2025/ND-CP introduces detailed breach notification requirements, obliging organizations to report personal data protection violations and provide information regarding the nature of the breach, affected data, potential consequences, and remedial measures undertaken [12].

Overall, the 2025 Law on Personal Data Protection and Decree No. 356/2025/ND-CP represent a significant development in Vietnam's data governance regime. Together with constitutional guarantees, civil law remedies, and cybersecurity safeguards, these instruments form an increasingly comprehensive and coherent legal framework that seeks to balance the protection of personal data, digital innovation, national security, and the sustainable development of the digital economy.

Vietnam has demonstrated a strong commitment to digital transformation through Decision No. 1033/QĐ-TTg approving the Programme for Digital Economy and Digital Society Development for the Period 2026–2030 [13]. The Programme targets the digital economy to contribute approximately 30% of GDP by 2030, with 100% of citizens aged 14 and above possessing digital identification accounts and 99% of the population covered by 5G networks, while promoting national databases, data-sharing mechanisms, and AI-driven services as foundations of a data-driven economy [14].

Legal framework for protecting the rights of personal data subjects and implementation practices in Kazakhstan

In the Republic of Kazakhstan, the protection of personal data is ensured by the Constitution, the Law of May 21, 2013, "On Personal Data and Their Protection," the Law of November 24, 2015, "On Informatization," the Digital Code of the Republic of Kazakhstan, and a number of other regulatory legal acts.

It should be noted that in the new Constitution, adopted at a national referendum on March 15, 2026, this article was amended to Article 21 and reads as follows: "The right to privacy, personal and family secrets, and the protection of personal data from illegal collection, processing, storage, and use, including through the use of digital technologies, is guaranteed by law" [15]. As can be seen, the article has been supplemented with a provision that takes into account the modern realities of social relations – it mentions the use of digital technologies. The new Constitution will come into force on July 1, 2026.

The Civil Code of the Republic of Kazakhstan classifies privacy, personal and family secrets as personal non-property benefits and rights [16].

The primary law in the field of personal data protection in Kazakhstan is the Law of the Republic of Kazakhstan dated May 21, 2013, "On Personal Data and Its Protection." This law defines the concept of "personal data protection." According to paragraph 11 of Article 1 of the law, personal data protection is a set of measures, including legal, organizational, and technical ones, implemented for the purposes established by this law [17].

The purpose of the Law of the Republic of Kazakhstan dated May 21, 2013 No. 94-V "On Personal Data and their protection" is to ensure the protection of human and civil rights and freedoms during the collection and processing of personal data.

Article 3 of the Law states that it regulates "relations related to the collection, processing and protection of personal data".

Article 9 of the Law provides for the possibility of collecting and processing personal data without the consent of the subject. At the same time, he explains the circumstances in which this is possible, which he refers to as cases of "carrying out the activities of law enforcement agencies, courts and other authorized state bodies", carrying out activities in the field of statistics; maintaining military records; implementing international treaties of Kazakhstan; the need to protect the stipulated The Constitution of the Republic of Kazakhstan on human rights and freedoms; implementation by the unified accumulative pension fund of activities for special types of activities; carrying out the activities of a journalist within the framework of his profession and media activities for the protection of human rights; publishing personal data of candidates for elected positions of the state; transferring backup copies containing personal data of limited access; using personal data of a Kazakhstani citizen when submitting an application for the application of an out-of-court or judicial bankruptcy procedure.

Article 11 ensures the confidentiality of personal data of citizens. "Accumulation of personal data," as stated in article 12 of this Law, "is carried out by collecting personal data necessary and sufficient to perform tasks performed by the owner and (or) operator, as well as by a third party." We should agree with F. Syrlybayeva, K. Kasymova and other authors who claim that "the obligations of the employer are not established at the state level" and there is no clear mechanism for "ensuring the confidentiality of personal data of employees" [18, p. 90-91].

If in Article 12 (part 2) of the Law of the Republic of Kazakhstan "On Personal Data" "personal data is stored by the owner and (or) the operator, as well as by a third party in a database located on the territory of the Republic of Kazakhstan", in Article 18 of the Law of Vietnam dated June 26, 2025 there is no such strict requirement and in this regard it He speaks about the need to create convenience for Vietnamese businesses. It follows that the personal data of Vietnamese citizens can be located both within the country and abroad.

Article 16 of the Law defines the cross-border transfer of personal data as the transfer of "personal data to the territory of foreign States." Article 17 of the Law draws

attention to the fact that the collection and processing of personal data for the national artificial intelligence platform in order to depersonalize personal data of citizens is carried out by the operator of the national artificial intelligence (AI) platform in accordance with the data management requirements approved by the Kazakh Government. In a scientific article by R.D. Akshalova and M. Iqbal outlined the connection between artificial intelligence and cybernetics related to personal electronic data [19, pp. 57-58].

While in Europe, according to article 15 of the General Data Protection Regulation, personal data subjects have broad rights, including access to their data, the right to correct inaccuracies (article 16 of the General Regulation), and the right to data portability (under article 20 of the General Regulation), "in Kazakhstan, the rights of personal data subjects are more limited" (see Article 19 of the Law of the Republic of Kazakhstan "On Personal Data and their Protection). Based on the conclusion of these authors, we propose to expand the rights of Kazakhstani citizens for wider access to their personal data.

A separate chapter 3 of the Law is devoted to the protection of personal data of citizens of the republic. Article 20 of the Law guarantees the protection of personal data with the help of the State. What is the meaning of personal data protection purposes? The answer to this question is provided by article 21 of the Law, which assumes that such protection is carried out in order to: exercise "privacy rights"; preserve their integrity; respect them in confidentiality; exercise the right to access them; prevent illegal collection and processing of this data. In this chapter, much attention is paid to the protection of electronic information resources that contain personal data.

In chapter 4, based on Article 24, a personal data subject has the right to: "know about the availability of their personal data from the owner and (or) operator, as well as a third party", "require the owner and (or) operator, as well as a third party, to block their personal data in case of information about a violation of the terms of collection, processing of personal data".

Another significant difference between the Vietnamese law and the Kazakh law is that while article 8 of the Vietnamese Law provides for sufficiently severe sanctions for violating the norms of the Law on Personal Data, the Kazakh law does not provide for penalties in accordance with article 29. The Kazakh legislator focused on punishments for similar violations in the administrative law (article 79 of the Code of Administrative Offences of the Republic of Kazakhstan: recently, fines for violations of the legislation on personal data awarded by administrative courts have been increased) and criminal law (article 147 of the Criminal Code of the Republic of Kazakhstan). The reader can learn more about the issues of liability for violations of personal data laws in Europe and Asia (using Indonesia as an example) from the scientific article by D. Pavestri, A. Kusumadara and others on the subject [20].

Regulatory Convergence and Divergence between Vietnam and Kazakhstan

The comparative analysis demonstrates that the personal data protection frameworks of Vietnam and Kazakhstan exhibit both convergence and divergence in

relation to internationally recognized standards, particularly those reflected in the GDPR, the OECD Privacy Guidelines, and the APEC Privacy Framework. While both jurisdictions increasingly recognize personal data protection as a fundamental component of digital governance and digital trust, they have adopted different regulatory approaches in implementing these principles. Vietnam has developed a more comprehensive rights-based framework under the 2025 Law on Personal Data Protection, while Kazakhstan continues to strengthen its legal framework through ongoing legislative modernization and digital governance reforms.

Differences become more apparent in the areas of cross-border data governance and data localization. Vietnam permits cross-border transfers subject to regulatory safeguards and compliance requirements, reflecting a relatively flexible and accountability-oriented approach. Kazakhstan, by contrast, adopts a more controlled model that places greater emphasis on regulatory oversight, data security, and the localization of personal data within national territory.

Institutional governance and enforcement mechanisms also reveal divergent regulatory priorities. Vietnam has strengthened compliance obligations and sanctions under its new legal framework, while Kazakhstan relies primarily on administrative and criminal liability mechanisms supported by state-centered regulatory oversight. These approaches reflect different understandings of how personal data protection should be balanced against national security, regulatory control, and digital economic development.

Overall, the comparison suggests that convergence with international standards does not necessarily result in regulatory uniformity. Rather, Vietnam and Kazakhstan illustrate how emerging digital economies adapt global data protection principles to their respective legal traditions, governance priorities, and socio-economic contexts. This process may be better understood as adaptive harmonization, whereby international standards are localized while preserving distinctive national regulatory characteristics.

Criteria	GDPR	Vietnam	Kazakhstan
Data subject rights	Comprehensive	Broadly aligned	More limited
Accountability mechanisms	Strong	Strong	Developing
Cross-border data transfers	Adequacy-based	Conditional	Controlled
Data localization	No general requirement	Partial	Strong
Supervisory model	Independent Authority	Ministry-based	State-based
Enforcement mechanisms	Comprehensive	Strengthening	Developing
Regulatory orientation	Rights-based	Accountability-oriented	Sovereignty-oriented

*Table 1. Comparative Assessment of Vietnam and Kazakhstan
(compiled by the authors)*

Towards greater harmonization of personal data protection frameworks in Vietnam and Kazakhstan

Although Vietnam and Kazakhstan have made significant progress in developing legal frameworks for personal data protection, further efforts are needed to promote regulatory harmonization and facilitate digital economic cooperation.

1) Different Regulatory Priorities: Vietnam has increasingly emphasized accountability, compliance mechanisms, and risk-based governance, particularly through the 2025 Law on Personal Data Protection. Kazakhstan, meanwhile, places greater emphasis on data security, regulatory oversight, and the protection of national data infrastructure. Greater mutual understanding of these approaches may contribute to future regulatory compatibility.

2) Cross-Border Data Governance and Institutional Development: The growth of digital trade and cross-border digital services requires effective mechanisms for the secure transfer of personal data. Both Vietnam and Kazakhstan continue to strengthen institutional capacity to respond to increasingly complex data governance issues. Enhanced regulatory dialogue and capacity-building initiatives could support greater consistency in implementation.

3) Strengthening Enforcement and Digital Trust: Effective personal data protection depends not only on legislation but also on enforcement and public trust. Strengthening these mechanisms will contribute to building digital trust and supporting sustainable digital economic cooperation between Vietnam and Kazakhstan.

Overall, despite differences in regulatory approaches, both countries share common objectives of protecting personal data, promoting digital trust, and supporting digital economic development. Continued legal reform and regulatory cooperation may therefore provide a foundation for greater harmonization with international standards and more effective cross-border data governance.

Conclusion

The study demonstrates that both Vietnam and Kazakhstan have made significant progress in developing legal frameworks for personal data protection and are increasingly aligned with international standards reflected in the GDPR, the OECD Privacy Shield Guidelines, and the APEC Privacy Shield Framework. However, important differences remain in terms of regulatory priorities, institutional governance, cross-border data flows, and enforcement mechanisms. While Vietnam pursues a more accountability-oriented approach, Kazakhstan places greater emphasis on data sovereignty and regulatory oversight. A comparative analysis suggests that convergence with international standards does not necessarily lead to regulatory uniformity. Rather, developing digital economies are adapting global data protection principles to suit their domestic governance priorities and socioeconomic context. Therefore, strengthening accountability, enforcement capacity, and cross-border regulatory cooperation will be essential for enhancing trust in digital technologies and supporting sustainable digital economic cooperation between Vietnam and Kazakhstan.

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Authors' contributions

The article was co-authored by a Vietnamese and Kazakh scholar.

1) Nguyen Thi Long analyzed Vietnamese legislation, conducted a comparative analysis, and put forward proposals for improving bilateral cooperation and harmonization of legislations.

2) Bekmyrza Karazhan analyzed Kazakhstani legislation, discussed its compliance with international standards, and examined the similarities and differences between the two laws.

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The constitutional and legal status of migrants in the Republic of Kazakhstan: differences in human rights and citizenship

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Abstract. This article analyzes the constitutional and legal status of migrants in the Republic of Kazakhstan in the light of the Constitution adopted in 2026. The study focuses on the fundamental difference between universal human rights, which are presented to everyone without discrimination, and the rights of citizens, with an emphasis on key rights such as freedom of movement, social protection, labor rights, access to education and healthcare.

The author pays special attention to an urgent issue in the field of migration, such as maintaining a balance between the sovereign right of the state to control migration and compliance with international agreements and absolute human rights.

According to the author's conclusions, the constitutional reforms are aimed at strengthening the protection of the interests of the state, including procedures for entry, residence and deportation of migrants. It is also noted about the prohibition of any discrimination and ensuring the basic needs of migrants.

The article examines the key areas of human rights implementation, as well as the difference between the rights granted in these areas for migrants and citizens. According to the author's arguments, the Constitution establishes the priority of citizens' rights, observing the basic principles in the field of human rights. This approach reflects the legal vector of Kazakhstan, aimed at maintaining a balance between the two most difficult issues in the field of migration.

Keywords: migration, Constitution of the Republic of Kazakhstan, human rights, state sovereignty, freedom of movement, differentiation of rights, international standards.

Қазақстан Республикасындағы мигранттардың конституциялық-құқықтық мәртебесі: адам және азаматтардың құқықтарының саралануы

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Андатпа. Мақала жаңадан қабылданған Конституция аясында мигранттардың конституциялық-құқықтық мәртебесін қарастырады. Зерттеу шеңберіне адамдарға тиесілі және танылған абсолютті құқықтар мен Қазақстан Республикасының азаматтарына ғана бекітілген құқықтар айырмашылығы енгізілген. Атап айтқанда, негізгі назар абсолютті құқықтар деп танылған әлеуметтік қорғау, қозғалыс еркіндігі, еңбек құқықтары, денсаулық сақтау мен білім беру аясына аударылған.

Сонымен қатар, зерттеуде Қазақстан Республикасы таныған халықаралық және жергілікті шарттар мен мемлекеттегі көші-қон саласын қадағалауға бағытталған заңды әрекеттері арасында туындайтын күрделі тепе-теңдікті сақтауға бағытталған нормалар қарастырылады.

Автордың пікірінше жаңа Конституция мемлекеттің егемендігі мен көші-қон процестерін қатаң бақылаумен қатар, адамның абсолютті құқықтарын кемсітуге тыйым салады.

Көші-қонның екі негізгі аспектілері арасындағы тепе-теңдікті сақтау қазіргі заманның ең күрделі мәселелерінің бірі болып табылуына қарамастан, Қазақстан ұлттық егемендікті сақтай отырып, халықаралық құжаттардың талаптарын орындауға әрекет жасап, мигранттардың негізгі құқықтарын қамтамасыз етіп, сонымен бірге белгілі бір қиындықтар туғызды.

Түйін сөздер: көші-қон, Қазақстан Республикасының Конституциясы, адам құқықтары, мемлекеттік егемендік, жүріп-тұру еркіндігі, құқықтарды саралау, халықаралық стандарт.

Конституционно-правовой статус мигрантов в Республики Казахстан: разграничение прав человека и гражданских прав

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Аннотация. В данной статье анализируется конституционно-правовой статус мигрантов в Республике Казахстан в свете Конституции, принятой в 2026 году.

Исследование обращено на фундаментальное различие между универсальными правами человека, представленных всем без дискриминации и правами граждан, с акцентом на ключевые права, как свобода передвижения, социальная защита, трудовые права, доступ к образованию и здравоохранению.

Автор уделяет особенное внимание актуальному вопросу в сфере миграции, как сохранение баланса между суверенным правом государства по контролю сферы миграции и соблюдением международных договоренностей и абсолютных прав человека.

Согласно выводам автора, конституционные реформы направлены на усиление защиты интересов государства, включая процедуры въезда, проживания и депортации мигрантов. Также отмечается о запрете какой-либо дискриминации и обеспечении базовых потребностей мигрантов.

В статье рассмотрены ключевые области реализации прав человека, а также разница предоставляемых прав в этих сферах для мигрантов и граждан. Согласно доводам автора, Конституция закрепляет приоритетность прав граждан, соблюдая основные принципы в области прав человека. Данный подход отражает правовой вектор Казахстана, направленный на соблюдение баланса между двумя наиболее сложными вопросами в сфере миграции.

Ключевые слова: миграция, Конституция Республики Казахстан, права человека, государственный суверенитет, свобода передвижения, дифференциация прав, международные стандарты.

Introduction

The new Constitution of the Republic of Kazakhstan [1] marks notable innovations in a sharper separation between rights belonging to all individuals and those reserved exclusively for citizens, accompanied by a reinforced focus on protecting national sovereignty in the context of intensified global migration.

Kazakhstan deeply engaged in Eurasian and CIS, faces the ongoing challenge of meeting labour market demands while safeguarding national security, public order, and the economic interests of its citizens. Against this backdrop, a detailed examination of migrants' constitutional and legal status holds both academic and policy relevance.

Material and methods

This study used a doctrinal and legal research method combined with comparative and normative analysis.

The research is based primarily on a qualitative analysis of legal sources. The main materials include:

The Constitution of the Republic of Kazakhstan (adopted on March 15 ,2026) [1].

International universal and regional human rights documents as Universal Declaration of Human rights (1948) [2], the International Covenant on Civil and Political rights (1966) [3], the Convention on the Rights of the Child (1989) [4], the International Covenant on Economic, Social and Cultural Rights (1966) [5];

Kazakhstan's legislation system of these sphere includes the Law of Population Migration [6], the Labour Code [7], the Law on Education [8], the Code on Public Health and the Healthcare system [9] and Law on Foreigners [10];

Scientific doctrine: monographs, articles and comments by Kazakhstani and foreign legal scholars on human rights, state sovereignty, freedom of movement and the legal status of migrants;

The methodological tools include:

Normative interpretation of constitutional and legislative provisions;

Comparative legal method (comparison of the constitutional formulations “everyone and citizen”, as well as analysis of Kazakh legislation in the light of international standards);

System and structural analysis;

The formal legal method.

Literature review

Scholarly interest in the constitutional and legal situation of migrants in Kazakhstan has grown significantly in recent years.

Tiunov [11] emphasizes that states view the provisions of the Universal Declaration of Human Rights as a benchmark for developing their domestic legislation.

This perspective remains highly relevant for analyzing the interaction between international human rights standards and Kazakhstan's constitutional framework.

The constitutional and legal situation of migrants in Kazakhstan has aroused considerable interest among scientists in recent years. For example, O.I. Tiunov believes that the norms of the Universal Declaration of Human Rights are a legal guideline for States when developing national legislation [11]. A.V. Kudryavtseva notes that due to the absoluteness of the right to movement, restriction of this right is possible only at the legislative level [12]. It should be noted that the proportion of publications is devoted either to a wide range of issues, or theoretical issues or specific narrow issues within the framework of migration legislation. The purpose of this article is to examine the legal status of migrants, enshrined in the country's main law, which simultaneously strengthens sovereign control and preserves the basic means of protecting human rights.

Results and discussion

1. Differentiation of human and civil rights - theoretical and legal foundations.

The inalienable and inherent nature of universal human rights to everyone from birth is recognized by the Universal Declaration of Human Rights (Articles 1 and 13) [2], which is the legal standard for states according to Tiunov [11]. Meanwhile, the rights of a citizen are a special type of rights conditioned by the political and legal connection of an individual with a particular state. The Constitution of the Republic of Kazakhstan applies two different legal formulations: "everyone" (or "everyone who is legally located on the territory of the Republic Kazakhstan") and "citizen of the Republic of Kazakhstan" [1]. It should be noted that this approach corresponds to the generally accepted practice in modern constitutional law, according to which fundamental human rights are guaranteed to all persons under the jurisdiction of the State, while certain socio-economic and political rights are primarily reserved for citizens [13].

2. Freedom of movement and state sovereignty.

One of the recognized absolute human rights is freedom of movement. The norms of article 24 of the Constitution of Kazakhstan proclaim the right of free movement and secure it for any person legally residing in the country [1]. However, this right is limited due to circumstances arising from the sovereignty of the State. The Constitution directly stipulates the exercise of this right by the legality of residence on the territory of the State, a provision reflecting the exercise of Kazakhstan's territorial sovereignty and consistent with widely recognized international principles. The Republic has full powers to control the entry, stay and expulsion of non-citizens and stateless persons. This regulation is a standard feature of government practice all over the world and is considered as a fundamental aspect of sovereign power. Meanwhile, the conflict that arises between the interests of national security and international human rights standards continues to cause controversy among legal scholars. Supporters of sovereignty emphasize the prerogative of the State to determine the conditions of entry, while others place human rights at the core. For example, many scholars support the view that sovereignty gives states supreme authority over their

territory, residents, and political decisions. In the field of migration, this sovereignty is manifested in the right of the state to control its borders and decide who can enter or leave the country [14]. Historically, the powers here are almost absolute and allow states to keep foreigners away for various reasons, from security concerns to protectionism for economic purposes. K. Wellman argued that Immigration control should be understood in the same way that people are free to decide who to invite to their homes. Scholars such as Krasner dispute this view, arguing that it contradicts fundamental human rights and human dignity. In their opinion, borders should be regulated in accordance with human rights obligations that support the principles of universal justice, and not serve as insurmountable barriers [15]. As noted by A.V. Kudryavtseva, there is no absolute freedom of movement, and even in ancient times, when there were no state borders or official restrictions, people faced natural barriers such as climate, geography, and their own physical limitations. In the modern world, freedom of movement is always implemented within the framework established by law [12]. It is worth noting that one of the earliest legal documents explicitly recognizing the right to freedom of movement is the Magna Carta of Great Britain [16]. This charter also gave the State authority over decisions concerning emigrants, stating: “In the future, anyone will be allowed to leave our kingdom and return safely by land or water, while remaining loyal to us, except in cases of war”.

W. Blackstone defined the right to travel as “the right to move, to change to go to any place at will without imprisonment or restrictions, provided that it complies with the law” [17]. Meanwhile, Steinbach argues that the right to unrestricted freedom of movement is an integral part of the concept of one nation and goes back to the founding principles on which the United States was founded. According to him, the concept of freedom of movement includes three separate individual rights:

- the right to leave one's current place of residence and move to another place;
- the right to freely cross various borders;
- the right to settle in a place of one's choice and stay there [18].

We agree with Steinbach's opinion, since the right to movement actually includes these three elements, without which the migration process itself would be incomplete. First of all, migration is a conscious understanding of a person that he does not want to stay in a given place, regardless of the pushing reasons, respectively, he understands where he might like to end up and live, that is, three key procedural points of migration: emigration, migration and immigration.

Dummett argues that a truly powerful right must be unconditional. Consequently, he views the right to immigration as a “weaker, conditional right,” which essentially means that entry should generally be granted unless the receiving State can provide specific reasons for refusal [19].

Similarly, Iglesias Sanchez notes that judicial practice and legislation regarding freedom of movement are much more developed than other rights related to citizenship. Nevertheless, the search for a universal understanding of this right — or a balanced compromise between the interests of the State and the protection of migrants' rights — remains unresolved [20].

The Law of the Republic of Kazakhstan "On Population Migration" establishes 14 specific grounds for refusing entry to foreigners. Most of these grounds are clearly defined and legally justified. Only a relatively broad provision is the first one that allows entry to be refused in the interests of national security, public order and public health [6].

The international legal acts reasonably reserve the right of choice for states, since each government must regulate the economy of its country, protect borders and security, which is one with the security of the country's people and sovereignty. Thus, each state has the privilege to determine the entrance to its territory, just as we control who can enter our homes.

The analysis shows that the right to freedom of movement in the Constitution of the Republic of Kazakhstan (art. 24) [1] is formulated as a universal right belonging to "everyone" who legally resides on the territory of the state. At the same time, this right is not absolute and is legitimately limited by the requirement of legal residence, which serves as a constitutional mechanism for protecting State sovereignty.

Kazakhstan's approach fully complies with modern international standards and the prevailing doctrine of state sovereignty. Most States reserve the exclusive right to regulate the entry, stay and expulsion of foreigners, while maintaining a balance between the universal nature of human rights and national interests in the field of security, public order and socio-economic well-being of their citizens.

The existing academic debate between proponents of strong State sovereignty (Wellman and others) and proponents of a more liberal, human rights-oriented approach (Karens, Dummett) reflects the complexity of this issue. However, the constitutional model chosen by Kazakhstan demonstrates a reasonable compromise: it recognizes freedom of movement as a fundamental human right, while clearly subordinating its implementation to the principles of legality and State control. Kazakhstan has adopted a pragmatic middle ground and acknowledges freedom of movement as a basic human right, but subordinates its implementation to legal requirements and effective governmental oversight. Through this approach, the 2026 Constitution manages to merge universal human rights norms with the legitimate sovereign powers of the state in migration governance.

3. Differentiation of socio-economic rights

3.1. Labour

The analysis of the norms of the Constitution in the field of labor relations shows the differentiation of the rights of citizens and foreigners. The norms of article 27 guarantee everyone the right to fair remuneration for work performed without discrimination and in accordance with international standards in this field. At the same time, the norms of article 31 guarantee the minimum wage exclusively to citizens of the country [1]. Despite the fact that this legal regulation is aimed directly at protecting national interests, the lack of a legal guarantee in the field of minimum wage for foreigners creates practical difficulties and may be perceived as legal discrimination. It should be noted that the Labor Code establishes the principle of non-discrimination and guarantees wages to all employees not lower than the minimum level.

Nevertheless, the absence of this provision in the Constitution and its presence in sectoral legislation may create practical and procedural difficulties and require further harmonization. It should be noted that the Labor Code not only prohibits discrimination in the field of work, but also guarantees the minimum wage in article 4. Article 6 prohibits discrimination on any grounds, including nationality and place of residence [7]. Nevertheless, the provisions of article 31 of the Constitution create a potential legal conflict, since they provide universal guarantees exclusively to citizens of the country. Despite the fact that such differentiation is permissible from a legal point of view and the Labor Code is aimed at more precise and detailed regulation of legal relations, the provisions of the Constitution are norm-forming, which imposes special responsibility on them.

Thus, articles 27 and 31 of the Constitution represent the complex nature of the constitutional and legal status of migrants in Kazakhstan, who are granted labor rights but are not guaranteed a minimum wage threshold.

3.2. Ownership rights

The differentiation of rights is also reflected in the sphere of property and housing rights. Thus, the norms of article 29 of the Constitution enshrine the right of private property for citizens of the country [1]. However, the provisions of article 9 of the Law “On the Legal Status of Foreigners” grant equal rights and impose equal obligations on foreigners permanently residing in the country and having a residence permit [10].

3.3. The right to education

With regard to education, Article 33 of the Constitution guarantees the right to primary education for citizens [1]. Meanwhile, the Law on Education provides that children of migrants and foreign nationals enjoy the same rights as citizens and have free access to primary education (art.8) [21].

This situation indicates that there is a certain conflict between constitutional norms and special legislation.

3.4. Social rights

Migrants legally working in Kazakhstan, as a rule, bear tax and social obligations that are practically equivalent to the citizens of Kazakhstan. Although Article 31 of the Constitution primarily links key social guarantees — such as minimum wages, pensions, and social security in cases of old age, illness, disability, loss of breadwinner, and other legitimate grounds — to citizenship [1], the provisions of the Social Code adopt a broader approach.

In particular, maternity and childcare benefits are granted to permanent residents of Kazakhstan, as well as to foreign citizens entitled to such payments under ratified international treaties (arts.79 and 81). Similarly, state awards for mothers with many children are provided to foreigners and stateless persons permanently residing in the Republic on equal terms with Kazakhstan citizens (art. 93).

Comparable rules apply to state social disability allowances (art. 175), large family allowances (art. 90), caregiver allowances (art. 187), basic pensions, retirement pensions, and other pension payments. These benefits are generally available to

permanently resident foreigners and stateless persons, unless otherwise stipulated by law or international agreements.

Although labour migrants make a substantial contribution to the social security system through taxes and mandatory contributions, the most significant social benefits and pensions remain primarily accessible to holders of permanent residence permits. Temporary migrant workers have considerably more limited access to these guarantees, despite paying comparable amounts into the system [21].

This regulatory model reflects the general logic of the 2026 Constitution: strengthening the socioeconomic protection of Kazakhstani citizens while maintaining differentiated legal status for foreign citizens [1].

Results

The conducted study allows drawing the following key conclusions:

The new Constitution of the Republic of Kazakhstan establishes a clear distinction between universal human rights belonging to “everyone” (or “everyone lawfully present on the territory of the Republic of Kazakhstan”) and rights reserved specifically for citizens of the Republic. This differentiation constitutes one of the central features of the updated Basic Law.

The right to freedom of movement (art.24) is recognized as a universal right for all persons lawfully residing in the country. At the same time, the state retains its sovereign authority to regulate the entry, stay, and exit of foreigners, in full compliance with international standards and the principles of state sovereignty.

A certain degree of ambivalence exists in the regulation of labour and socioeconomic rights. While article 27 guarantees broad universal rights regarding working conditions and remuneration without discrimination, article 31 reserves several important guarantees (minimum wage and certain social security benefits) primarily for citizens [1]. Sectoral legislation, however, often extends broader protections to permanently resident foreigners.

A similar differentiation exists in the sphere of property and housing rights. Article 29 of the Constitution establishes the right to private property as a right of citizens of the Republic of Kazakhstan [1]. At the same time, the Law “On the Legal Status of Foreigners” grants foreigners permanently residing in Kazakhstan (with a residence permit) almost equal rights with citizens in matters of property and housing [10].

In the field of education and social rights, sectoral legislation provides for a broader approach than constitutional provisions. While the Constitution primarily links many socioeconomic rights to citizenship, the Law on Education and the Social Code extend significant rights to permanent residents, and, in some cases, to foreigners subject to international treaties.

Migrants who legally work in Kazakhstan have tax and social obligations that are almost equivalent to the tax obligations of citizens. Nevertheless, the most significant social benefits and pension payments are available primarily to permanent residents of foreigners. Temporary migrant workers have significantly more limited access to these guarantees.

Overall, the 2026 Constitution strengthens the sovereign component in migration regulation while upholding the universal nature of fundamental human rights. The existing discrepancies between constitutional norms and sectoral legislation highlight the objective difficulty of balancing national interests with international human rights obligations.

Conclusion

The adoption of the new Constitution of the Republic of Kazakhstan on 15 March 2026 marked an important stage in the country's constitutional evolution. One of its defining features is the clear differentiation between universal human rights and citizens' rights, which is particularly evident in the regulation of migrants' legal status.

The analysis shows that the 2026 Constitution effectively combines recognition of core universal human rights with a reinforced sovereign approach to migration policy. Remaining discrepancies between constitutional provisions and implementing legislation create legal uncertainty and necessitate further improvement.

A priority task for future legislative development should be the consistent application of the proportionality principle when determining the scope of rights and obligations of foreign nationals depending on their migration status (temporary or permanent), together with reliable mechanisms to prevent indirect discrimination.

Overall, the constitutional and legal status of migrants under the 2026 Constitution represents a reasonable compromise between the universal nature of fundamental human rights and the sovereign right of the state to safeguard its national interests in the face of global migration challenges.

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Authors' contributions

The article was co-authored by Kazakh scholars analyzed Kazakhstan legislation system, International legislation, conductive comparative analysis.

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2) Amanzhol Magzumovich Nurmagambetov – responsible for the research methodology, doctrinal analyses and investigation.

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Современное состояние правового регулирования беспилотных автомобилей на международном и национальном уровне

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Аннотация: Пробелы в международно-правовом регулировании беспилотных автомобилей (автомобилей, осуществляющих автоматизированное движение при помощи искусственного интеллекта (далее – ИИ), радаров, лидаров, мобильных данных и других датчиков) представляют серьезное препятствие для развития производства данного технологичного и в перспективе безопасного вида транспорта. Авторы считают, что отсутствие международно-правового регулирования технологии автономного вождения является одной из основных проблем в этой сфере. В связи с этим появляется юридическая неопределенность для производителей и затрудняется разработка стандартов безопасности и ответственности. Более того, действующие законы во многих странах не адаптированы для регулирования новых технологий, например, беспилотные автомобили. И это в дальнейшем создает сложности в процессе сертификации и регистрации таких транспортных средств.

Также авторы изучают вопросы конфиденциальности и защиты данных, а также возникающие с этим этические дилеммы, связанные с принятием автономными системами решений в экстремальных ситуациях. Все эти факторы приводят к снижению темпов внедрения и расширения использования беспилотных автомобилей. Поэтому очень важно применять комплексный подход со стороны законодателей и правительства при решении этих вопросов.

Данная статья изучает текущее состояние правового регулирования использования беспилотных автомобилей как одного из важных аспектов развития технологий ИИ. Особое внимание авторы уделили анализу международных документов, казахстанского законодательства и опыта зарубежных стран в данной сфере. В заключении авторы приходят к выводу, что развитие правового регулирования в этой области играет ключевую роль в успешной интеграции беспилотных автомобилей в городскую инфраструктуру.

Ключевые слова: искусственный интеллект, беспилотные транспортные средства, системы автопилота, автоматизированное управление, дорожное движение, безопасность дорожного движения, национальное правовое регулирование, международное правовое регулирование.

Халықаралық және ұлттық деңгейлерде пилотсыз көліктерді құқықтық реттеудің қазіргі жағдайы

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Андатпа: Автономды көлік құралдарын (жасанды интеллект (бұдан әрі - жасанды интеллект), радар, лидар, мобильді деректер және басқа да сенсорларды пайдаланып автоматты түрде жұмыс істейтін көліктер) халықаралық құқықтық реттеудегі олқылықтар осы технологиялық тұрғыдан дамыған және әлеуетті қауіпсіз көлік түрін дамытуға елеулі кедергі келтіреді. Авторлар автономды жүргізу технологиясын халықаралық құқықтық реттеудің болмауы осы саладағы негізгі мәселелердің бірі деп санайды. Бұл өндірушілер үшін құқықтық белгісіздік тудырады және қауіпсіздік пен жауапкершілік стандарттарын әзірлеуді қиындатады. Сонымен қатар, көптеген елдердегі қолданыстағы заңдар автономды көліктер сияқты жаңа технологияларды реттеуге бейімделмеген. Бұл мұндай көліктерді сертификаттау және тіркеу процесін одан әрі қиындатады.

Авторлар сонымен қатар құпиялылық және деректерді қорғау мәселелерін, сондай-ақ экстремалды жағдайларда шешім қабылдауға байланысты автономды жүйелермен байланысты этикалық дилеммаларды қарастырады. Осы факторлардың барлығы автономды көліктерді енгізу қарқынының баяулауына және пайдаланудың артуына әкеледі. Сондықтан заң шығарушылар мен үкіметтер үшін бұл мәселелерді шешуге кешенді тәсіл қолдану өте маңызды. Бұл мақалада жасанды интеллект технологиясын дамытудың негізгі аспектісі ретінде жүргізушісіз көліктерді пайдалануды құқықтық реттеудің қазіргі жағдайы қарастырылады. Авторлар халықаралық құжаттарды, қазақстандық заңнаманы және осы саладағы шет елдердің тәжірибесін талдауға назар аударды. Қорытындылай келе, авторлар бұл саладағы құқықтық реттеудің дамуы жүргізушісіз көліктерді қалалық инфрақұрылымға сәтті интеграциялауда маңызды рөл атқарады деген қорытындыға келді.

Түйін сөздер: жасанды интеллект, пилотсыз көлік, автопилоттық жүйелер, автоматтандырылған басқару, жол қозғалысы, жол қауіпсіздігі, ұлттық құқықтық реттеу, халықаралық құқықтық реттеу.

The current state of legal regulation of unmanned vehicles at the international and national levels

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Abstract: Gaps in international legal regulation of autonomous vehicles (vehicles that operate automatically using artificial intelligence (hereinafter referred to as AI), radar, lidar, mobile data, and other sensors) pose a serious obstacle to the development of this technologically advanced and potentially safe mode of transport. The authors believe that the lack of international legal regulation of autonomous driving technology is one of the main problems in this area. This creates legal uncertainty for manufacturers and complicates the development of safety and liability standards. Moreover, current laws in many countries are not adapted to regulate new technologies, such as autonomous vehicles. This further complicates the certification and registration process for such vehicles.

The authors also examine issues of privacy and data protection, as well as the resulting ethical dilemmas related to autonomous systems making decisions in extreme situations. All of these factors are leading to a slower pace of adoption and increased use of autonomous vehicles. Therefore, it is crucial for legislators and governments to take a comprehensive approach to addressing these issues. This article examines the current state of legal regulation for the use of driverless vehicles as a key aspect of AI technology development. The authors focused on analyzing international documents, Kazakhstani legislation, and the experience of foreign countries in this area. In conclusion, the authors conclude that the development of legal regulation in this area plays a key role in the successful integration of driverless vehicles into urban infrastructure.

Keywords: artificial intelligence, unmanned vehicle, autopiloted systems, automated control, traffic, road safety, national legal regulation, international legal regulation.

Введение

На сегодняшний день крупные автомобильные производители активно занимаются разработкой транспортных средств (далее – ТС), передвигающихся беспилотно (под такими ТС подразумевают те, которые осуществляют работу на базе искусственного интеллекта (далее – ИИ)) для их дальнейшего запуска в коммерческое производство. И здесь, первым делом стоит вопрос о

целесообразности такого шага в современной действительности и о том, насколько возможно использование подобных функций ИИ, внедренных в автомобили на практике с точки зрения правовых механизмов регулирования, а также фактической готовности дорожной инфраструктуры для эксплуатации беспилотных транспортных средств (далее – БТС).

Согласно исследовательскому отчету компании «Precedence Research» (рисунок 1) объем мирового рынка автономных транспортных средств оценивался в 121,78 млрд долларов США в 2022 году и, по прогнозам, достигнет примерно 2 353,93 млрд долларов США к 2032 году, при этом совокупный годовой темп роста составит 35% с 2023 по 2032 год:



Рисунок 1. Объем рынка автономных транспортных средств 2022-2032 (в долларах США) [1]

Вероятность такого роста не может не привлекать крупнейшие мировые автомобильные концерны, такие как General Motors, Volkswagen AG, Tesla, Toyota и другие, для инвестирования в этом направлении автомобилестроения.

К тому же, в теории, использование систем автономного управления ТС в сфере грузоперевозок могло бы сократить время доставки грузов. Связано это с тем, что вследствие снижения доли участия водителя либо оператора ТС в его управлении, а также возможности полного самостоятельного управления таких ТС, исчезает необходимость совершать остановки для удовлетворения неотложных потребностей, присущих человеку (сна, приема пищи и других нужд).

Материалы и методы исследования

Методология исследования включает такие этапы, как определение целей исследования, литературный обзор, сбор правовых и статистических данных, анализ данных.

Автор проанализировал литературу, связанную с механизмами правового регулирования автопилотируемых систем, работающих на основе ИИ, встроенных в автомобильный транспорт и международный опыт эксплуатации автомобилей, имеющих такие системы. Это позволило получить обзор существующих теорий, методов и результатов предыдущих исследований, а

также выявить возможные проблемы и противоречия. Собранные данные были проанализированы, используя соответствующие методы, такие, как статистический анализ, качественный анализ или смешанные методы.

В работе использованы следующие методы и материалы:

1. Анализ универсальных и региональных международных документов: Венская Конвенция о дорожном движении 1968 года; международные стандарты ISO TC 22 «Дорожные транспортные средства» и ISO TC 204 «Интеллектуальные транспортные системы»; проект приложения №24 к действующим правилам Евразийского Таможенного союза, включая Казахстан, относительно декларирования безопасности автомобилей с системами автоматизированного управления.

2. Анализ национального законодательства Республики Казахстан (далее – РК) и зарубежных государств, в таких документах как: Гражданский Кодекс РК от 1 июля 1999 года; Закон РК «О дорожном движении» от 17 апреля 2014 года № 194-V; Закон РК «О транспорте в Республике Казахстан» от 21 сентября 1994 года № 156-XIII; Закон РК «О техническом регулировании» от 30 декабря 2020 года № 396-VI; Закон РК «О персональных данных и их защите» от 21 мая 2013 года; Закон РК «Об обязательном страховании гражданско-правовой ответственности владельцев транспортных средств» от 1 июля 2003 года; Постановление Правительства РФ от 26 ноября 2018 г. N 1415 «О проведении эксперимента по опытной эксплуатации на автомобильных дорогах общего пользования высокоавтоматизированных транспортных средств».

3. Теоретический анализ литературы по проблеме исследования, а именно: А. Такач, Д. А. Дрекслер, П. Галамбос, И. Дж. Рудесс и Т. Хайдеггер «Assessment and Standardization of Autonomous Vehicle»; М.С. Хорсвилл и Ф.П. Маккенна, «Способность водителей воспринимать опасность: осознание ситуации на дороге»; В.Г. Татарян, А.Д. Баженов «Состояние безопасности дорожного движения и перспектива внедрения функции беспилотного управления транспортным средством в транспортную систему Республики Казахстан»; А.Ф. Синякова «Беспилотные автомобили и автострахование в Республике Корея: тенденции и перспективы»; Е.Г. Королева «Современное состояние правового регулирования беспилотных транспортных средств в России и анализ зарубежного опыта».

Результаты исследований и их обсуждение

Для начала стоит обратить внимание одному из основополагающих международных документов, регулирующих правоотношения в сфере дорожного движения – Венской Конвенции о дорожном движении 1968 года. В ней содержится следующая формулировка (Статья 8): «каждое транспортное средство или состав транспортных средств, которые находятся в движении, должны иметь водителя» (Венская Конвенция, 1968). Исходя из этого, можно сделать вывод о том, что документ, принятый более полувека назад, не признает саму природу БТС – как ТС, управляемого без участия водителя. Следовательно, существует необходимость рассмотрения вопроса о внесении соответствующих

поправок, которые бы отделяли термины ТС в классическом (более привычном) для нас понимании и термин БТС для водителей, операторов-водителей со своими правами, обязанностями и ответственностью, которые бы обеспечивали безопасность дорожного движения. Однако отсюда исходит дилемма регулирования стандартов дорожных знаков и дорожной разметки. Есть ли необходимость их оснащения специальными датчиками для того, чтобы ИИ, установленный в БТС более корректно осуществлял управление транспортом, обеспечивая безопасность для жизни всех участников дорожного движения?

Вероятно, решение данной проблемы появится в ближайшие годы, так как на данный момент активно осуществляется правовая регламентация технологических стандартов для беспилотных автомобилей.

Один из аспектов правовой регламентации таких стандартов был рассмотрен А. Такачем, Д. А. Дрекслером, П. Галамбосом, И. Дж. Рудессом и Т. Хайдеггером в их научной работе «Assessment and Standardization of Autonomous Vehicle» (Оценка и стандартизация автономного транспортного средства) (Takács Á. et al., 2018).

В работе отмечается, что Общество автомобильных инженеров разработало терминологию, применяемую в отношении БТС, а также определило 6 уровней автоматизации БТС (уровни: 0-5), которые на сегодняшний день являются одними из наиболее распространенных научных критериев разделения уровней автоматизированного дорожного транспорта (SAE International, 2021).

На уровне 0 автоматизация вождения отсутствует. ТС уровня 0 имеют возможность подавать предупреждающие сигналы водителю, но не имеют возможности вмешиваться в процесс вождения любыми другими способами. Как правило, функциональные возможности заключаются в следующем: предупреждение о лобовом столкновении; предупреждение о выезде с полосы движения.

На первом уровне автотранспортное средство имеет возможность оказывать активную помощь водителю посредством рулевого управления или ускорения в кооперации с водителем. Как правило, функциональные возможности заключаются в следующем: система помощи при удержании полосы движения; автоматический круиз-контроль.

На втором уровне ТС оказывает активную комплексную помощь водителю как при рулевом управлении, так и при ускорении, обеспечивая полное управление транспортным средством в ограниченных случаях использования и постоянный мониторинг окружающей среды человеком-водителем. Это соответствует последнему слову техники в автомобилях массового производства и в значительной степени ограничено функциями автопилота на шоссе.

Уровни, начиная от 0 до 2, классифицируются как «уровни ADAS (Advanced driver-assistance systems)» и не признаются дорожно-транспортными средствами, относящимися к категории БТС.

На следующем – третьем уровне осуществляется, так называемая, «условная автоматизация», которая подразумевает, что ТС оснащается системой ограниченного восприятия ситуации на дороге и принятия решений в ситуации, когда осуществляется динамичное вождение при активном контроле со стороны человека (Horswill M.S., McKenna F.P., 2004).

Четвертый уровень характеризуется достаточно высокой степенью автоматизации ТС. Взаимодействие человека и машины в режиме реального времени отсутствует, поскольку ТС должно справляться с аварийными ситуациями и переходить в безопасное состояние в случае чрезвычайной ситуации. После остановки в безопасном состоянии водитель или оператор ТС могут взять управление на себя.

Полная автоматизация – пятый уровень автоматизации вождения. В данном случае пассажирам не требуется навык управления автомобилем, интерфейс управления (рулевое колесо, педали) также отсутствует в связи с тем, что все функции по управлению ТС делегированы ИИ.

Для облегчения будущего регулирования БТС многочисленные организации по разработке стандартов работают в этой области. Наиболее продвинутыми инициативами являются инициативы Международной организации по стандартизации:

1. ISO TC 22 (Road vehicles). Согласно данному регламенту, осуществляется стандартизация основных аспектов для всех типов дорожных транспортных средств и их интерфейсов, утвержденных для эксплуатации на общественных дорогах на протяжении всего жизненного цикла (в первую очередь это касается вопросов безопасности, устойчивости, технического обслуживания, оценки производительности и т.д.). Данный регламент также включает в себя, но не ограничивается следующими аспектами, связанными с ТС: аппаратное и программное обеспечение (далее – ПО), автоматизация управления и другое (ISO/TC 22, 1947).

2. ISO TC 204 (Intelligent transport systems). ISO/TC 204 регулирует стандарты наземных транспортных средств и отвечает за общие системные аспекты и аспекты инфраструктуры интеллектуальных транспортных систем [ISO/TC 204, 1992].

Помимо вышеперечисленных, существует ряд других регламентов (как международных, так и национальных) направленных на техническую стандартизацию БТС.

Возвращаясь к вопросам о существующих трудностях крупномасштабного выпуска и эксплуатации беспилотных автомобилей, необходимо отметить отсутствие универсального механизма правового регулирования БТС, более того, существует множество философских, этических и других вопросов, препятствующих разработке правовых механизмов. Одни из них:

1. Вопрос о предоставлении тестовых территорий или дорог общего пользования для беспилотных автомобилей.

2. Вопрос о защищенности от взлома баз данных и недопущения вмешательства извне в контроль элементов управления.

3. Предсказуемость и рациональность решений ИИ, встроенного в автомобиль – в случае дорожно-транспортного происшествия (далее – ДТП) спасти водителя или пешехода либо же кто ответственен в ДТП – водитель или автопилот?

4. Вопросы страхования в случае ДТП с участием беспилотного автомобиля.

Рассматривая отечественную и зарубежную правовую практику в сфере регулирования беспилотных автомобилей необходим комплексный анализ, который заключается в установлении соответствующей правовой основы, а также научно-технической проработке аспектов корректной работы систем ИИ. В первую очередь, важно отметить, что в законодательстве РК на момент написания статьи отсутствует термин «беспилотный автомобиль» или «беспилотное транспортное средство» в его понимании как дорожного транспорта. Однако, согласно п.6 Статьи 49 Закона Республики Казахстан «О дорожном движении» от 17 апреля 2014 года № 194-V, устанавливающим основные требования по обеспечению безопасности дорожного движения при эксплуатации ТС, ТС должно иметь: тормозную систему; рулевое управление; зеркала заднего вида; звуковой сигнал; шасси; световые приборы, обеспечивающие безопасность дорожного движения; при этом должна обеспечиваться достаточная обзорность и видимость, позволяющие безопасно управлять ТС; механизмы, предметы дополнительного оборудования и приспособления ТС, исключающие риск причинения вреда жизни и здоровью человека, и окружающей среде; также должно обеспечиваться уменьшение опасности для пассажиров и других участников дорожного движения в случае ДТП (Закон РК, 2014).

Отсюда следует, что ТС, относящиеся к категории полностью автоматизированных, не имеющих интерфейс управления (рулевое колесо, педали) в связи с тем, что все функции по управлению ТС делегированы ИИ – не допускаются к эксплуатации в Республике Казахстан. Соответствующие положения закреплены в Законе РК от 21 сентября 1994 года № 156-XIII «О транспорте в Республике Казахстан» (Закон РК, 1994), Законе РК «О техническом регулировании» от 30 декабря 2020 года № 396-VI (Закон РК, 2020) и других нормативных актах.

В то же время, в скором времени может быть введено Приложение №24 к действующим правилам Евразийского Таможенного союза, включая Казахстан, относительно декларирования безопасности автомобилей с системами автоматизированного управления.

Согласно этому документу, автомобили с автопилотом, предназначенные для использования на общественных дорогах, должны обладать следующими функциями:

1. Соблюдение выделенной полосы без отклонений.

2. Остановка в местах, предусмотренных маршрутом или по требованию пассажиров.

3. Начало движения только при закрытых дверях и застегнутых ремнях безопасности пассажиров.

4. Оповещение пассажиров о приближении к остановке и начале движения после остановки с помощью звуковых сигналов.

5. Аварийная остановка с помощью "стоп-крана" для минимизации рисков.

6. Возможность связи пассажирского салона с диспетчером автономного движения через голосовые сообщения.

7. Снижение скорости перед поворотами для обеспечения комфорта пассажиров.

8. Комфортное для пассажиров ускорение и замедление ТС.

9. Звуковое оповещение пассажиров при экстренном торможении.

10. Обнаружение и обход статических и движущихся препятствий, включая пешеходов, с автоматическим экстренным торможением при необходимости.

11. Самодиагностика неисправностей с передачей информации оператору и обеспечением безопасной остановки и высадки пассажиров в случае необходимости [11].

Возвращаясь к вопросу о допуске автоматизированных ТС к эксплуатации на специально отведенных зонах или дорогах общего пользования, хотелось бы отметить, что в РК на сегодняшний день отсутствует какое-либо существенное правовое основание для этого шага.

Отмечается две существующие особенности эксплуатации высокоавтоматизированных ТС на дорогах общего пользования:

1. Автомобили данного типа широко распространены и пользуются спросом в экономически развитых государствах, граждане которых обладают достаточным капиталом и, соответственно, высокой покупательской способностью;

2. Как уже подчеркивалось ранее, автомобили на базе беспилотного управления требуют наличия качественной дорожной разметки (линий разделения, знаков, пешеходных переходов, велосипедных и других зон и т.д.), дорожного покрытия и иной необходимой транспортной инфраструктуры.

Помимо этого, авторы отмечают существующий высокий спрос на автомобили марки Tesla, которые оснащены функцией беспилотного управления в наиболее крупных и экономически развитых населенных пунктах – в городах Астана и Алматы (Татарян В.Г., Баженов А.Д., 2022).

Исходя из этого, считается необходимым, обратить внимание компетентных государственных органов РК на рассмотрение возможностей для предоставления специальных условий для эксперимента, а затем и подготовки городской инфраструктуры и технологий БТС для повсеместной эксплуатации на дорогах общего пользования.

Сарсембаев М.А. в своей научной статье отмечает следующее: «возможные юридические проблемы на дорогах Казахстана можно предотвратить и решить, используя юридический опыт применения резолюции Европейского парламента от 16 февраля 2017 года «Нормы гражданского права о робототехнике», поскольку функционирование робота основано на технологии искусственного интеллекта» (Сарсембаев М.А., 2022).

Также, он предлагает к принятию новый закон РК под следующим названием – Закон РК «О регулировании правовых отношений в области искусственного интеллекта». По мнению профессора Сарсембаева, в законе должно быть предусмотрено, что «все технологии искусственного интеллекта, включая технологии механизма беспилотного вида транспорта, должны быть зарегистрированы в специализированном агентстве при наличии технической, нормативной и этической экспертизы. В этом же законе желательно определить ответственность механизмов искусственного интеллекта, программиста, заложившего соответствующие алгоритмы действий, оператора-контролера этих действий. Те же стандарты должны быть распространены на интеллектуальных промышленных роботов, участвующих в производстве беспилотных транспортных средств на заводе. В законе также необходимо сформулировать правила обязательного страхования, чтобы пользователи роботов и других механизмов искусственного интеллекта могли покрыть ущерб, причиненный ими пострадавшим лицам» (Сарсембаев М.А., 2022 с. 43).

Кроме того, подключенные сети 5G окажут значительное влияние на развитие технологий автономного управления электромобилями. Именно эти сети и их последующие поколения обеспечат электромобилям возможность моментально получать необходимую информацию и взаимодействовать с другими движущимися и стоящими автомобилями, а также с окружающей дорожной инфраструктурой.

24 июля 2024 года была принята Концепция развития искусственного интеллекта на 2024 - 2029 годы. Однако в данном документе касательно беспилотных автомобилей говорится лишь о скорости принятия решения беспилотного автомобиля как примера проблемы ограниченности возможностей алгоритмов (Постановление Правительства РК, 2024)

Из опыта Российской Федерации, мы можем видеть, как осуществлялась реализация идеи экспериментальной эксплуатации БТС на дорогах России (стоит отметить, что данный эксперимент географически ограничился всего несколькими городами и регионами). Постановление Правительства РФ от 26 ноября 2018 г. N 1415 «О проведении эксперимента по опытной эксплуатации на автомобильных дорогах общего пользования высокоавтоматизированных транспортных средств» дало возможность экспериментальной эксплуатации БТС на специально отведенных для этого территориях в период с 1 декабря 2018 года по 1 июля 2022 год в городе Москва и Республике Татарстан и с 1 марта 2022 года по 1 июля 2022 год в ряде других регионов [15].

Другой пример – Республика Корея, где в 2018 году был создан специальный городок K-City для проверки возможностей автомобилей, управляемых искусственным интеллектом, без прямого вмешательства человека. В сентябре 2022 года Министерство земли, инфраструктуры и транспорта Республики Корея опубликовало стратегический план развития транспортной отрасли, согласно которому к 2025 году общественный наземный транспорт будет пополнен беспилотными автобусами 4-го уровня автономности, а частные автомобили смогут использовать подобную технологию к 2027 году. В области развития технологий автоматизированного транспорта Корея нацелена на лидерство, уступая по темпам лишь Японии и Германии (Синякова А.Ф., 2023).

Вопрос о защищенности от взлома баз данных и вмешательства извне в контроль элементов управления также играет ключевую роль и нуждается в разработке правовых механизмов, обеспечивающих соответствующую безопасность в сфере безопасности жизни участников дорожного движения, автомобиля – как имущества, а также конфиденциальности и защищенности личных данных. Это необходимо в первую очередь для того, чтобы данные, аудиозаписи и видеозаписи, обрабатываемые и хранимые в системе БТС были защищены от стороннего вмешательства (в том числе, захвата системы управления ТС; изменений заводских настроек; уничтожения личной информации о водителе и пассажирах и т.д.). В последнее время общественность заговорила о необходимости оснащении БТС «черными ящиками» – системами, фиксирующими данные поездки, включая записи разговоров в салоне беспилотного автомобиля.

В Республике Казахстан вопросы защиты персональных данных закреплены в одноименном нормативно-правовом акте – Законе «О персональных данных и их защите» от 21 мая 2013 года. Согласно Статье 25 данного Закона собственник и (или) оператор персональных данных (в случае с БТС таковым является автопроизводитель) несет обязательства по утверждению перечня персональных данных, который требуется для выполнения задач соответствующего ТС в соответствии с установленным законодательством. Еще одним требованием является принятие и соблюдение необходимых мер для защиты персональных данных в соответствии с законодательством РК (Закон РК, 2013).

Все необходимые меры, указанные в законе, в перспективе допуска БТС на дороги общего пользования в недалеком будущем имеют важное значение.

Известны случаи совершения хакерских взломов беспилотных автомобилей. Один из них – взлом автомобиля «Jeep», произошедший летом 2015 года в Соединенных Штатах Америки (далее – США). Незаконное вторжение в систему было представлено двумя исследователями в сфере информационной безопасности. Сначала, им удалось взломать систему климат-контроля и радио, установленную в БТС, затем успешная кибератака позволила вмешаться в систему управления автотранспорта.

Как следствие, уязвимость системы, была обнаружена также у 1,4 миллиона автомобилей и грузовиков, которые были отозваны автопроизводителем «FiatChrysler Automobiles» после публикации статьи Чарли Миллера и Криса Валасека (тех самых исследователей, проводивших описанный эксперимент) (Королева Е.Г., 2021).

Касаемо вопроса о предсказуемости и рациональности решений ИИ в случае ДТП – спасти водителя или пешехода либо же кто ответственен в ДТП – водитель или автопилот, здесь характерна не только философская сторона вопроса, как это могло показаться на первый взгляд, регулятором служит также и правовой аспект.

Хоть ИИ, задействованный в системах БТС и имеет способность высокоскоростного анализа и расчетов для более «разумного» и «рационального» поведения на дорогах, а уж тем более в вопросе спасения жизни (будь то жизнь водителя, пешехода или другого участника дорожного движения), всегда будут следовать последствия и соответствующая правовая ответственность.

В связи с тем, что в Республике Казахстан отсутствуют положения по правовому регулированию ответственности БТС (как и в целом по правовому регулированию явления автоматизированного автомобильного транспорта), то и ответственность за допущение ДТП с участием ТС на базе автоматизированного управления несут «традиционные» участники дорожного движения. В большинстве случаев это водитель и пешеход.

Указывая на сложившуюся ситуацию, можно говорить и о «презумпции виновности» когда в аварии всегда будет считаться виновным водитель, пока результаты расследования происшествия не докажут обратного.

Безусловно, вопрос о виновности в случае ДТП с участием беспилотного автомобиля вызывает множество сложных моральных и правовых соображений. В первую очередь, на лицо возможность технических сбоев, которые могут стать причиной аварии. В таком случае, первыми кандидатами на вину становятся разработчики ПО и инженеры, ответственные за создание алгоритмов и систем управления беспилотным автомобилем. Этот аспект следует дополнительно рассмотреть и закрепить на правовом уровне.

Вторым аспектом может являться качественные характеристики самого автомобиля. Если причиной ДТП стали дефекты в конструкции или компонентах беспилотного автомобиля, ответственность может лежать на производителе. Это включает в себя проблемы с датчиками, камерами, системой навигации и т. д.

Третьим фактором является вопрос о владельце и операторе автомобиля. Если владелец или оператор беспилотного автомобиля не следил за инструкциями по использованию или не поддерживал автомобиль в надлежащем состоянии (в соответствии с правилами эксплуатации конкретной модели автомобиля или же если собственник ТС своевременно не проходил техническое обслуживание), они также могут быть признаны виновными.

Наконец, не следует забывать о человеческом факторе. Хотя беспилотные автомобили разрабатываются для минимизации ошибок водителей, люди могут вмешаться в процесс и создать опасную ситуацию, что также может повлечь за собой вопросы о виновности.

Вышеуказанная позиция, в очередной раз подчеркивает убежденность в том, что вопрос определения виновности в ДТП является сложным, следовательно требуется комплексный подход к правовой регламентации указанных вопросов для разрешения проблемы юридической неопределенности ответственности.

Далее, переходя вопросам страхования, появляется резонный вопрос – возможно ли застраховать БТС и в каких случаях осуществляются страховые выплаты? Для ответа на данный вопрос, нам снова нужно обратиться к законодательству РК и зарубежному опыту в сфере страхования.

Прежде всего, существует важность понимания того, что БТС подвергаются тем же рискам, что и автомобили, не имеющие автоматизированных систем управления, таким как ДТП, угон, хулиганство, повреждения от стихийных бедствий и катастроф антропогенного характера (как пример – пожар в паркинге) и тому подобное. Кроме того, им свойственны и следующие специфические риски: сбой программного обеспечения (далее – ПО); возможность хакерских атак; принятие системами ИИ сомнительных, с точки зрения человека, решений.

И если основная цель классического автострахования (автострахования ТС, не имеющих интегрированных систем автоматизированного управления) заключается в возмещении ущерба с указанием виновного лица с целью предъявления ему требований о возмещении убытков, то в период масштабного появления беспилотного транспорта на дорогах станет необходимым пересмотр подхода к определению ответственности за разного рода дорожные происшествия, так как связь между ущербом и ответственностью становится намного сложнее.

Вопрос о принятии сомнительных решений системами искусственного интеллекта в области автострахования открывает широкий философский диалог о природе принятия решений и их последствиях. Решения, основанные на искусственном интеллекте, могут действительно сделать страховые компании более эффективными и точными в оценке рисков. Но есть другая сторона медали - этические и социальные проблемы, которые возникают при использовании таких решений.

Например, алгоритмы могут быть настолько сложными, что их решения становятся непонятными для клиентов. И если что-то пойдет не так, кто будет отвечать за ошибки? Особенно когда искусственный интеллект принимает решения без участия человека.

Также важно не забывать о человеческом факторе. Автоматизация может сэкономить время и силы, но только человек может действительно понять

контекст и принять решение, которое требует морального суждения и сочувствия.

Таким образом, применение систем искусственного интеллекта в автостраховании требует тщательного обсуждения и балансировки между эффективностью, справедливостью и социальными нормами. Это заставляет нас задуматься о том, как мы принимаем решения и какие ценности мы им придаем. Только после этого мы сможем решить более конкретные вопросы, такие как определение ответственности и возмещение ущерба.

В Казахстане вопросы страхования ТС закреплены в Гражданском Кодексе РК (далее – ГК РК) от 1 июля 1999 года (Гражданский кодекс РК, 1999), Законе РК «Об обязательном страховании гражданско-правовой ответственности владельцев транспортных средств» от 1 июля 2003 года и в других нормативных актах (Закон РК, 2013).

Однако, изучив национальное законодательство и практику автомобильного страхования в РК, можно убедиться в том, что казахстанские страховые компании не занимаются страхованием рисков, связанных с повреждением систем осуществляющих беспилотную работу ТС, а также рисков, связанных с нарушением имущественных прав третьих лиц (в результате использования таких систем). Все это также отсылает нас к существующим пробелам в законодательстве, которые требуют скорейшего рассмотрения, в силу последних тенденций в развитии ИИ и автомобилестроения.

Пока соответствующие нормы законодательно не установлены, окончательное решение будет принимать суд. На наш взгляд существует вероятность того, что с развитием страхования БТС низкие страховые премии для них будут оказывать давление на рынок страхования автомобилей, не наделенных автоматизированными системами управления, что приведет к повышению тарифов. Следовательно, и по мере совершенствования технологий автономного управления, включая использование ИИ, электроники и сенсоров, будут предоставляться мгновенные данные о причинах аварий и виновных лицах.

Как было отмечено А.Ф. Синяковой: «сегмент страхования коммерческого транспорта характеризуется высокой степенью убыточности, и участие ИИ в управлении этим транспортом может радикально изменить этот сегмент страхового рынка. В долгосрочной перспективе снижение страховых выплат приведет к конкуренции между страховыми компаниями за рыночные доли и, как результат, к снижению стоимости страхования. В масштабах мирового рынка это приведет к уменьшению выручки страховых компаний от этого вида страхования» (Синякова А.Ф., 2023).

Выводы

Проведенное исследование позволило определить настоящее состояние казахстанского законодательства с позиции определения правового статуса и разработки механизмов правового регулирования беспилотных автомобилей, а также продемонстрировало нам достижения и конкретные шаги,

предпринимаемые в этом направлении зарубежными странами, а именно опыт Российской Федерации, США и Южной Кореи.

Анализ методов и путей решения имеющихся проблем напоминает нам о необходимости установления, прежде всего, международно-правовой определенности понятия беспилотного транспортного средства (в первую очередь в Венской Конвенции о дорожном движении 1968 года), что задаст вектор для дальнейшей правовой регламентации вопросов, касающихся беспилотных автомобилей, и станет импульсом для восполнения существующих правовых пробелов.

Согласно результатам исследований, прогнозируется совокупный годовой темп роста рынка БТС около 35% с 2023 по 2032 год, что не может не стимулировать рост внимания со стороны юристов на дилеммы, охватывающие эту сферу.

Что касается Республики Казахстан, то в рамках данной темы соответствующим государственным органам предстоит выполнить большой объем работы по восполнению пробелов, а основные законы регулирующие сферу дорожного движения (конкретно в Закон РК «О дорожном движении», Закон РК «О транспорте в Республике Казахстан», Закон РК «О техническом регулировании», Закон РК «Об обязательном страховании гражданско-правовой ответственности владельцев транспортных средств»), вероятно, должны претерпеть изменения и дополнения, возможно отражая и успешный практический опыт других стран.

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Право на здоровье в международном и национальном праве: оценка эффективности законодательства Республики Казахстан

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Аннотация. В исследуемой статье рассматриваются актуальные проблемы совершенствования законодательства в сфере здравоохранения Республики Казахстан как одного из ключевых механизмов реализации прав граждан на получение медицинской помощи и охрану здоровья. Международные договоры устанавливают базовые нормы в сфере обеспечения права на здоровье, в то время как специальные регулируют отдельные сектора системы здравоохранения.

Целью исследования является выявление дефектов, противоречий и коллизий в правовом регулировании нормативных правовых актов в области здравоохранения.

Особое внимание уделено вопросам обеспечения аутентичности текстов нормативных правовых актов на казахском и русском языках и совершенствованию нормотворческой деятельности.

Научная и практическая значимость публикации вызвана необходимостью разработки эффективной нормативной базы в области здравоохранения.

Методологическую основу статьи составляют следующие методы научного познания: анализа, синтеза, дедукции, индукции, сравнительно-правовой метод.

Материалы исследования включают научную литературу в сфере нормотворчества, международные договоры, законодательство Республики Казахстан.

Результатом анализа являются выявленные коллизии и противоречия в регулировании возраста молодежи, выдачи заключения ВКК, механизме осуществления сооплаты, а также выявленные неаутентичности текстов нормативных правовых актов.

Ценностью проведенного исследования являются выработка рекомендаций и предложений по совершенствованию законодательства и повышению эффективности правоприменительной практики.

Практическое значение итогов работы обусловлен тем, что появилась возможность использовать их в нормотворческой деятельности, научной

правовой экспертизе нормативных правовых актов и формировании предложений по повышению эффективности правового регулирования общественных отношений в области здравоохранения.

Ключевые слова: законодательство, Республика Казахстан, здравоохранение, международные договоры, аутентичность текстов НПА.

Халықаралық және ұлттық құқықтағы денсаулыққа құқық: Қазақстан Республикасы заңнамасының тиімділігін бағалау

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Андатпа. Зерттелетін мақалада азаматтардың медициналық көмек алуға және денсаулықты қорғауға құқықтарын іске асырудың негізгі тетіктерінің бірі ретінде Қазақстан Республикасының Денсаулық сақтау саласындағы заңнаманы жетілдірудің өзекті мәселелері қарастырылады. Халықаралық шарттар Денсаулық сақтау құқығын қамтамасыз ету саласында базалық нормаларды белгілейді, ал арнайы шарттар Денсаулық сақтау жүйесінің жекелеген секторларын реттейді.

Зерттеудің мақсаты денсаулық сақтау саласындағы нормативтік құқықтық актілерді құқықтық реттеудегі ақауларды, қайшылықтарды және қайшылықтарды анықтау болып табылады.

Нормативтік құқықтық актілер мәтіндерінің қазақ және орыс тілдеріндегі түпнұсқалығын қамтамасыз ету және нормашығармашылық қызметті жетілдіру мәселелеріне ерекше назар аударылды.

Басылымның ғылыми және практикалық маңыздылығы Денсаулық сақтау саласында тиімді нормативтік базаны әзірлеу қажеттілігінен туындайды.

Мақаланың әдіснамалық негізі ғылыми танымның келесі әдістері болып табылады: талдау, синтез, дедукция, индукция, салыстырмалы-құқықтық әдіс.

Зерттеу материалдары норма шығару саласындағы ғылыми әдебиеттерді, халықаралық шарттарды, Қазақстан Республикасының заңнамасын қамтиды.

Талдау нәтижесі жастардың жасын реттеудегі, ДКК қорытындысын берудегі, бірлесіп төлеуді жүзеге асыру тетігіндегі анықталған қайшылықтар мен қайшылықтар, сондай-ақ нормативтік құқықтық актілер мәтіндерінің анықталған теңсіздіктері болып табылады.

Жүргізілген зерттеудің құндылығы заңнаманы жетілдіру және құқық қолдану практикасының тиімділігін арттыру бойынша ұсынымдар мен ұсыныстар әзірлеу болып табылады.

Жұмыс қорытындыларының практикалық маңыздылығы оларды норма шығару қызметінде, нормативтік құқықтық актілердің ғылыми құқықтық сараптамасында және денсаулық сақтау саласындағы қоғамдық қатынастарды құқықтық реттеудің тиімділігін арттыру бойынша ұсыныстарды қалыптастыруда қолдану мүмкіндігінің пайда болуымен байланысты.

Түйін сөздер: заңнама, Қазақстан Республикасы, денсаулық сақтау, халықаралық шарттар, НҚА мәтіндерінің түпнұсқалығы.

Right to health in international and national law: an assessment of the effectiveness of legislation in the Republic of Kazakhstan

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Abstract. The article examines the current problems of improving legislation in the field of healthcare in the Republic of Kazakhstan as one of the key mechanisms for the realization of citizens' rights to receive medical care and health protection. International treaties establish basic standards in the field of ensuring the right to health, while special ones regulate certain sectors of the health system.

The purpose of the study is to identify defects, contradictions and conflicts in the legal regulation of regulatory legal acts in the field of healthcare.

Special attention is paid to ensuring the authenticity of the texts of regulatory legal acts in Kazakh and Russian languages and improving normative activity.

The scientific and practical significance of the publication is caused by the need to develop an effective regulatory framework in the field of healthcare.

The methodological basis of this article consists of the following methods of scientific knowledge: analysis, synthesis, deduction, induction, comparative legal method.

The research materials include scientific literature in the field of rulemaking, international treaties, and the legislation of the Republic of Kazakhstan.

The analysis results in the identified conflicts and contradictions in the regulation of the age of youth, the issuance of a certificate by the MCC, the mechanism of co-payment, as well as the identified inconsistencies in the texts of regulatory legal acts.

The value of the conducted research is the development of specific recommendations and proposals for improving legislation and improving the effectiveness of application of law.

The practical significance of the results of the work is due to the fact that it has become possible to use them in standard-setting activities, scientific legal expertise of

regulatory legal acts and the formation of proposals to improve the effectiveness of legal regulation of public relations in the field of healthcare.

Keywords: legislation, the Republic of Kazakhstan, healthcare, international treaties, authenticity of the texts of the RLA.

Введение. Международный пакт ООН об экономических, социальных и культурных правах 1966 года, ратифицированный Республикой Казахстан в 2005 году, четко прописывает ряд обязательств для государств-участников по обеспечению право каждого человека на наивысший достижимый уровень физического и психического здоровья. В частности, для полного осуществления этого права необходимо создавать условия, которые обеспечивали бы всем медицинскую помощь и медицинский уход в случае болезни.

Кроме этого, Конвенция Содружества Независимых государств «О сотрудничестве в области охраны здоровья населения» от 26 июня 1992 года придает особое значение вопросу укрепления и охраны здоровья населения государств-участников Содружества. Стороны намерены проводить консультации и обмениваться опытом работы по совершенствованию системы управления здравоохранения.

И в этом случае одним из ключевых инструментов выступает нормотворческий процесс в сфере здравоохранения, который способен на законодательном и подзаконном уровнях предусмотреть соответствующие нормы. Но вместе с тем, на практике всегда открытым остается вопрос эффективности законодательства и возникновения коллизий. Эти вопросы всегда являются чувствительными для граждан, поскольку затрагивают их здоровье и дальнейшее благополучие.

Материалы и методы.

Методологическую основу данной статьи составляют следующие методы научного познания: анализа, синтеза, дедукции, индукции, сравнительно-правовой метод.

Материалы исследования включают научную литературу в сфере нормотворчества, международные договоры, национальное законодательство Республики Казахстан.

Обзор литературы. Проблематика совершенствования нормотворчества в Республике Казахстан на протяжении длительного времени является предметом повышенного интереса со стороны государства, общественности и представителей научного сообщества.

Как отмечают исследователи, происходящие в обществе социально-экономические изменения, обуславливают необходимость постоянного повышения качества нормативных правовых актов и совершенствования нормотворческой деятельности в целом (Садвокасов А.Б., 2022).

Анализируя научные труды казахстанских экспертов, следует отметить позицию, обосновывающую необходимость закрепления в национальном

законодательстве принципы гласности, разумности и профессионализма (Бузурбаев Е.М., 2021).

Указанная позиция находит подтверждение в трудах исследователей (Сухарев А.Я. и Крутских В.Е., 2003, с. 203) которые отмечали, что соблюдение принципов нормотворчества способствует предотвращению ошибок, уменьшает риск принятия неэффективно реализуемых норм, а также оказывает положительное влияние на повышение правовой культуры граждан.

Результаты и обсуждение.

Отрасль законодательства

В соответствии с Классификацией отраслей законодательства Республики Казахстан, утвержденной постановлением Правительства Республики Казахстан от 11 апреля 2019 года № 190 [1], анализируемое законодательство относится к отрасли 360.000.000. Медицинское законодательство.

Соответствие Закона стратегическим целям государства

В Послании Главы государства Касым-Жомарта Токаева народу Казахстана 8 сентября 2025 года «Казахстан в эпоху искусственного интеллекта: актуальные задачи и их решения через цифровую трансформацию» [2] особое внимание уделено вопросам адаптации законодательства к потребностям предпринимателей, стимулирования предпринимательской инициативы, а также модернизации правовой базы. В этой связи обозначена необходимость проведения глубокой и всесторонней ревизии действующего законодательства.

В соответствии с Концепцией правовой политики Республики Казахстан до 2030 года, утвержденной Указом Президента Республики Казахстан от 15 октября 2021 года № 674, первостепенное значение придается нормотворчеству как основному средству достижения целей проводимой политики в той или иной сфере. Учитывая, что в результате преимущественного разрешения вопросов общественного характера посредством принятия нормативных правовых актов формируется большое количество регуляторных мер, необоснованное регуляторное бремя, важно придать новый импульс ретроспективной оценке законодательства и альтернативным способам, не связанным с регуляторным вмешательством.

Государственными органами проводятся различного рода мероприятия, где обсуждаются и рассматриваются статистические анализы, научные идеи и исследования, которые могут быть использованы при нормотворческой деятельности [3].

В целях повышения доверия к системе здравоохранения Концепцией развития здравоохранения Республики Казахстан на 2022 – 2029 годы, утвержденной постановлением Правительства Республики Казахстан от 24 ноября 2022 года № 945, предусмотрена актуализация нормативной правовой базы [4].

На основании изложенного считаем, что нормотворчество в сфере здравоохранения соответствует стратегическим целям и задачам Республики Казахстан.

Анализ Закона на предмет выявления типичных дефектов, способствующих формированию различной практики применения законодательства

1. В соответствии с пунктом 3 Правил организации медицинской помощи по охране репродуктивного и психического здоровья несовершеннолетних в возрасте от десяти до восемнадцати лет и молодежи, утвержденных приказом Министра здравоохранения Республики Казахстан от 20 декабря 2020 года № ҚР ДСМ-285/2020, субъектами здравоохранения, предоставляющими медицинскую помощь по охране репродуктивного и психического здоровья **подросткам** в возрасте **от десяти до восемнадцати лет** и молодежи в возрасте **от восемнадцати до двадцати девяти лет**, включающую лечебно-профилактическую помощь, а также психосоциальные и юридические услуги, являются молодежные центры здоровья.

Данный пункт Правил является коллизионным по отношению к вышестоящим нормативным правовым актам.

Так, в пункте 3 статьи 92 Кодекса Республики Казахстан «О здоровье народа и системе здравоохранения», в соответствии с которым действуют Правила, указан возраст **«несовершеннолетних в возрасте от десяти до восемнадцати лет»**, а также **не устанавливают** возраст молодежи.

В соответствии с подпунктом 3) пункта 1 статьи 1 Закона Республики Казахстан «О государственной молодежной политике» молодежью являются граждане Республики Казахстан **от четырнадцати до тридцати пяти лет**.

Вместе с тем, важно обратить внимание, что Принципы защиты психически больных лиц и улучшения психиатрической помощи, принятые резолюцией 46/119 Генеральной Ассамблеи ООН от 17 декабря 1991 года, в соответствии с их целями и в контексте внутригосударственного законодательства, относящегося к защите несовершеннолетних, предписывают уделять особое внимание защите прав несовершеннолетних, включая, если необходимо, назначение личного представителя, не являющегося членом семьи.

Исследователи отмечают, что одной из проблем законодательства в области здравоохранения является наличие противоречий и коллизий. Кодекс о здоровье изобилует большим количеством бланкетных норм, часто несогласующимися с основными принципами отраслевого регулирования, и затрудняющие правоприменительную практику (Тлембаева Ж.У., 2025).

В данной ситуации Правила противоречат нормативным правовым актам вышестоящих уровней в части применения термина «подросток» вместо «несовершеннолетние», и безосновательного определения возраста молодежи.

Вместе с тем, согласно пункту 3 статьи 10 Закона Республики Казахстан «О правовых актах» каждый из нормативных правовых актов нижестоящего

уровня не должен противоречить нормативным правовым актам вышестоящих уровней.

2. В соответствии с пунктом 5 Правил осуществления сооплаты, утвержденных приказом Министра здравоохранения Республики Казахстан от 16 июля 2021 года № ҚР ДСМ-61, после выписки медицинским работником рецепта на амбулаторное лекарственное обеспечение пациент или его законный представитель информируется в личном кабинете **мобильного приложения «электронного правительства»** и (или) в мобильном приложении ИСС и (или) интернет-ресурсе ИСС, имеющих функционал электронных рецептов и интегрированных с ИСЛО, о зарегистрированных торговых наименованиях лекарственных средств и (или) медицинских изделий, соответствующих международному непатентованному наименованию, лекарственной форме и дозировке, адреса аптек, участвующих в рамках сооплаты и наличии в них лекарственных средств и (или) медицинских изделий с указанием их стоимости и размера доплаты в рамках сооплаты.

В данной редакции Правил употребляются слова **«мобильного приложения «электронного правительства»**. Следует отметить, что мобильное приложение *«eGov mobile»* предназначено для оказания государственных услуг и сервисов «Электронного правительства» посредством устройств мобильной связи.

В Казахстане отсутствует обязательное требование для граждан загружать в устройство мобильной связи данное приложение.

Необходимо внести изменения в пункт 5 Правил, изменив слова «мобильного приложения «электронного правительства» на слова «портала «электронного правительства».

3. Аналогичная ситуация в пункте 6 Правил, которая гласит: «Обеспечение пациента или его законного представителя лекарственным средством и (или) медицинским изделием осуществляется по международным непатентованным наименованиям с учетом лекарственной формы и дозировки посредством сканирования электронного рецепта (QR-кода), предъявляемого через сервис «Социальный кошелек» **в мобильном приложении «электронного правительства»** и (или) мобильные приложения ИСС и (или) интернет-ресурса ИСС, имеющих функционал электронных рецептов и интегрированных с ИСЛО.».

Как отмечает эксперт, каждый нормативный акт должен проходить не формальную, а реальную оценку воздействия на общество, экономику и права граждан. Нормотворчество должно ориентироваться на демократические, на экономические методы и минимизировать многочисленные запреты и мелочную регламентацию. Действующие и вновь создаваемые правовые акты не должны превращаться в тормоз развития государства и общества (Магеррамов М.М., 2026).

Таким образом, необходимо совершенствование норм в данном направлении.

4. В соответствии с пунктом 19 Правил использования единовременных пенсионных выплат на лечение, утвержденной приказом Министра здравоохранения Республики Казахстан от 15 февраля 2021 года № ҚР ДСМ-18 (далее - Правила ЕПВ), **ответственное лицо медицинской организации выдает** получателю или его законному представителю **заключение ВКК** и вносит его в медицинскую информационную систему по форме 026/у согласно Приказу, в течение 2 (двух) рабочих дней с даты проведения заседания ВКК для предоставления уполномоченному оператору.

Вместе с тем, согласно пункту 17 приказа Министра здравоохранения Республики Казахстан от 7 апреля 2022 года № ҚР ДСМ – 34 «Об утверждении Положения о деятельности врачебно-консультативной комиссии» (далее – Положение ВКК) **ВКК выдает медицинское заключение.**

В данном случае наблюдается внутреннее противоречие между подзаконными нормативными правовыми актами.

5. В соответствии с пунктом 22-1 Правил ЕПВ, при получении **повторного заключения ВКК при установке зубных протезов** предоставляется: контрольный рентген-снимок – перед фиксацией несъемных зубных протезов на этапе припасовки, фотография пациента с протезом в ротовой полости пациента – перед установкой съемных зубных протезов.

Тогда как согласно подпункту 16) пункта 17 Положения ВКК, **ВКК выдает медицинское заключение** по форме 026/у «Заключение врачебно-консультационной комиссии», утвержденной приказом № ҚР ДСМ-175/2020 о нуждаемости лиц в обеспечении протезами (**кроме зубных протезов**), протезно-ортопедическими изделиями.

Таким образом ВКК не имеет права на выдачу заключения на протезирование зубов. Во избежание разночтения предлагается исключить, либо синхронизировать данные нормы.

6. Отдельного внимания требует аутентичность нормативных правовых актов Республики Казахстан в области здравоохранения. В некоторых подзаконных актах, в частности в Положении ВКК тексты не аутентичны, также не совпадают пункты на казахском и русском языках.

Согласно Закону Республики Казахстан «О правовых актах», тексты нормативных правовых актов на казахском и русском языках должны быть аутентичны [5].

7. В соответствии с пунктом 266 Правил организации и проведения закупки лекарственных средств, медицинских изделий и специализированных лечебных продуктов в рамках гарантированного объема бесплатной медицинской помощи, дополнительного объема медицинской помощи для лиц, содержащихся в следственных изоляторах и учреждениях уголовно-исполнительной (пенитенциарной) системы, за счет бюджетных средств и (или) в системе обязательного социального медицинского страхования, фармацевтических услуг, утвержденных приказом Министра здравоохранения Республики Казахстан от 7 июня 2023 года № 110, установлено что в целях проведения

конкурса на заключение долгосрочных договоров поставки лекарственных средств и (или) медицинских изделий **проект номенклатуры лекарственных средств, медицинских изделий формируется на основании анализа потребности** системы здравоохранения по лекарственным средствам и медицинским изделиям, **проведенной научной организацией в области здравоохранения**, не позднее 5 декабря рассматривается формулярной комиссией, действующей согласно пункту 2 статьи 264 Кодекса ежегодно до 31 января.

Вместе с тем, текст пункта 266 Правил на казахском языке изложен в следующей редакции: «Дәрілік заттарды және (немесе) медициналық бұйымдарды берудің ұзақ мерзімді шарттарын жасасуға конкурс өткізу мақсатында дәрілік заттар, медициналық бұйымдар номенклатурасының жобасы денсаулық сақтау саласындағы уәкілетті орган жыл сайын 5 желтоқсаннан кешіктірмей дәрілік заттар мен медициналық бұйымдар бойынша денсаулық сақтау жүйесінің қажеттілігін талдау негізінде қалыптастырады және Кодекстің 264-бабының 2-тармағына сәйкес жұмыс істейтін формулярлық комиссияның қарауына жыл сайын 31 қаңтарға дейін жібереді», что в переводе интерпретирует как **«проект номенклатуры лекарственных средств, медицинских изделий формируется уполномоченным органом в области здравоохранения на основе анализа потребности системы здравоохранения по лекарственным средствам и медицинским изделиям»**.

Как указано выше, в Правилах на русском языке проект номенклатуры формируется **исключительно на основании** анализа потребности системы здравоохранения по лекарственным средствам и медицинским изделиям, **проведенной научной организацией в области здравоохранения**.

Согласно редакции нормы на казахском языке проект номенклатуры лекарственных средств, медицинских изделий **формируется уполномоченным органом в области здравоохранения**.

Следует отметить, что Правилами разработки, согласования и государственной регистрации нормативных правовых актов, утвержденными приказом и.о. Министра юстиции Республики Казахстан от 5 июля 2023 года № 464, качество разработки проектов нормативных правовых актов, соблюдение норм литературного языка, юридической терминологии и юридической техники, **аутентичность текстов на казахском и русском языках обеспечиваются государственными органами-разработчиками** [6].

Более того, в соответствии со статьей 24 Закона Республики Казахстан «О правовых актах» **тексты нормативных правовых актов на казахском и русском языках должны быть аутентичны**.

В данной ситуации считаем, что тексты не аутентичны и применение нормы пункта 266 Правил невозможно ввиду разночтений между казахским и русским языками.

Заключение. Резюмируя изложенное, отметим, что проведенный анализ действующего законодательства в области здравоохранения преследовал цель выявления дефектов, неточностей и аутентичности, что позволил выработать следующие рекомендации:

1. Правила организации медицинской помощи по охране репродуктивного и психического здоровья несовершеннолетних в возрасте от десяти до восемнадцати лет и молодежи, утвержденных приказом Министра здравоохранения Республики Казахстан от 20 декабря 2020 года № ҚР ДСМ-285/2020, не корреспондируют с Кодексом Республики Казахстан «О здоровье народа и системе здравоохранения» и Законом Республики Казахстан «О государственной молодежной политике». Рекомендуется привести в соответствие

2. В Правила осуществления сооплаты, утвержденных приказом Министра здравоохранения Республики Казахстан от 16 июля 2021 года № ҚР ДСМ-61, необходимо изменить слова «мобильного приложения «электронного правительства» на слова «портала «электронного правительства».

3. В части выдачи заключения ВКК уполномоченными лицами рекомендуется привести в соответствие Правила использования единовременных пенсионных выплат на лечение, утвержденной приказом Министра здравоохранения Республики Казахстан от 15 февраля 2021 года № ҚР ДСМ-18 с приказом Министра здравоохранения Республики Казахстан от 7 апреля 2022 года № ҚР ДСМ – 34 «Об утверждении Положения о деятельности врачебно-консультативной комиссии».

4. В части выдачи заключения ВКК на протезирование зубов рекомендуется привести в соответствие Правила использования единовременных пенсионных выплат на лечение, утвержденной приказом Министра здравоохранения Республики Казахстан от 15 февраля 2021 года № ҚР ДСМ-18 с приказом Министра здравоохранения Республики Казахстан от 7 апреля 2022 года № ҚР ДСМ – 34 «Об утверждении Положения о деятельности врачебно-консультативной комиссии».

5. Необходимо обеспечить аутентичность текстов в приказе Министра здравоохранения Республики Казахстан от 7 апреля 2022 года № ҚР ДСМ – 34 «Об утверждении Положения о деятельности врачебно-консультативной комиссии».

6. Во избежание разночтений между казахским и русским языками необходимо обеспечить аутентичность текстов в Правилах организации и проведения закупок лекарственных средств, медицинских изделий и специализированных лечебных продуктов в рамках гарантированного объема бесплатной медицинской помощи, дополнительного объема медицинской помощи для лиц, содержащихся в следственных изоляторах и учреждениях уголовно-исполнительной (пенитенциарной) системы, за счет бюджетных средств и (или) в системе обязательного социального медицинского страхования,

фармацевтических услуг, утвержденных приказом Министра здравоохранения Республики Казахстан от 7 июня 2023 года № 110.

Предлагаемые меры будут способствовать полной реализации норм Всеобщей декларации прав человека от 10 декабря 1948 года, согласно которым каждый человек имеет право на медицинский уход необходимый для поддержания здоровья.

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“Еуразия халықаралық құқық журналына” мақалалар беру бойынша авторларға арналған нұсқаулық

Журнал редакциясы авторлардан журналға жіберілетін жұмыстарды дайындау кезінде сақталуға тиіс ережелермен (журнал туралы жалпы ақпаратты, мақалаларды қарау рәсімін, жариялау этикасын қамтитын журнал редакциясының саясатымен) танысуды сұрайды.

1. Автордың (авторлардың **саны 3-тен аспауға тиіс**) мақаланы редакцияға жіберуі баспагердің – Л.Н.Гумилев атындағы Еуразия ұлттық университетінің журналда мақала басып шығару және оны кез келген шет тілінде қайта басу құқығына олардың келісімін білдіреді. Журналдың бір нөмірінде бір автордан 1-ден артық жарияланым жариялауға жол берілмейді. Мақаланың мазмұнына автор (авторлар) жауапты.

2. Мақала редакцияға (ашық журнал жүйесі (OJS) арқылы) Word файлында ұсынылады (бет – А4, барлық жағынан шеттер – 20 мм. Шрифт: Times New Roman, өлшемі 14).

XFTAP <http://grnti.ru/> бірінші жол, сол жақ; автор(лардың) инициалдары мен тегі – ортасына туралау, курсив; ұйымның толық атауы, қаласы, мемлекет (егер авторлар әртүрлі ұйымдарда жұмыс істесе, автордың аты-жөнінің және тиісті ұйымның қасына белгі қою керек; автор(лар)дың электронды поштасы – жақшада курсивпен; мақаланың тақырыбы – ортасына қою қара шрифтпен). Стилль файлын журналының веб-сайтынан жүктеп алуға болады.

Авторлар қолжазбаның екі нұсқасын ұсынуы керек, олардың біреуінде авторлар туралы ақпарат (аты-жөні, жұмыс орны, авторлар туралы ақпарат) болмауы қажет, себебі “екіжақты жабық” рецензиялауда анонимді мәтін талап етіледі. Сондай-ақ, автор(лар) Ілеспе хат ұсынуы қажет (Ілеспе хат шаблонын журналының веб-сайтынан алуға болады). Мақала файлдарын мақала тақырыбының алғашқы 4-5 сөзімен атау керек (мысалы: 1. Халықаралық құқықты оқыту әдістемесі туралы – автормен файл; 2. Халықаралық құқықты оқыту әдістемесі туралы – авторсыз файл).

3. Мақала көлемі 6-16 беттен аспауы қажет. Қазақ, орыс, ағылшын тілдерінде аңдатпа, түйін сөздер, әдебиеттер тізімі, референс, авторлар туралы мәліметтер мақала көлеміне кірмейді. Көрсетілген көлемнен асатын жұмыстар журналдың редакция алқасының айрықша шешімі бойынша ерекше жағдайларда жариялауға қабылданады.

4. Жұмыс мәтіні **XFTAP айдарынан** басталады. (Халықаралық ғылыми-техникалық ақпарат айдары, келесі сілтеме арқылы <http://grnti.ru/>), ары қарай автордың(лардың) аты-жөні мен тегі, ұйымның толық атауы, қаласы, мемлекет, автордың(лардың) e-mail, мақаланың тақырыбы, аңдатпа, түйін сөздер жазылады.

Аңдатпа (Abstract) зерттеу мақаласының қысқаша мазмұны және оқырманға мақаланың мәнін тез түсінуге көмектесу үшін қолданылады. Қазақ, орыс және ағылшын тілдеріндегі әрқайсысының көлемі 150 сөзден кем емес, бірақ 200 сөзден аспауы қажет. Аңдатпа құрылымы келесі тармақтарды қамтиды:

- зерттеу тақырыбы туралы кіріспе сөз;
- ғылыми зерттеудің мақсаты, негізгі бағыттары мен идеялары;
- жұмыстың ғылыми және практикалық маңыздылығының қысқаша сипаттамасы;
- зерттеу әдістемесінің қысқаша сипаттамасы;
- зерттеу жұмысының негізгі нәтижелері мен талдаулары, қорытындылары.
- жүргізілген зерттеудің мәні (осы жұмыстың тиісті білім саласына қосқан үлесі).
- жұмыс нәтижелерінің практикалық мәні.

Түйін сөздер (7 сөзден немесе сөз тіркестерінен көп емес) мақаланың негізгі мазмұнын көрсетуге, зерттеудің пәндік саласын анықтауға, мақала мәтінінде кездесуге тиіс. Түйін сөздер бір-бірінен үтір арқылы ажыратылады.

Журнал авторлары **мақала құрылымы бойынша** тақырыптарға сәйкес келесі ережелерді сақтауы керек:

Мақала мынадай құрылымға ие болуға тиіс (алғашқы үш тармақ – қазақ, ағылшын, орыс тілдерінде):

1. *Тақырып және автор (авторлар) туралы деректер* – автордың аты-жөні, ғылыми дәрежесі, ғылыми атағы, лауазымы, жұмыс орны, қаласы, елі, ORCID; жарияланымдардың барлық авторларының электрондық поштасы (оның ішінде негізгі авторды көрсете отырып).

2. *Аңдатпа (Abstract) (150-250 сөз).*

3. *Түйін сөздер (Keywords) (8-10 сөз).*

4. *Кіріспе (Introduction).*

5. *Материалдар мен әдістер (Materials and methods).*

6. *Нәтижелер мен талқылау (Results and discussion).*

7. *Қаржыландыру туралы ақпарат (бар болса) (Acknowledgements).*

8. *Әдебиеттер тізімі және транслитерацияланған әдебиеттер тізімі* – References бар болуы (транслитерация <http://translit-online.ru> веб-сайтта жүзеге асырылады.)

Ағылшын немесе орыс тілдерінде мақалалар жіберген шетелдік авторлар үшін мақаланың тақырыбын, авторлар туралы мәліметтерді, аңдатпа мен түйін сөздерді қазақ тіліне аударуды журнал редакциясы жүзеге асырады.

Кіріспе (Introduction) келесі негізгі элементтерден тұрады:

- тақырыпты таңдаудың негіздемесі, тақырыптың немесе мәселенің өзектілігі. Алдыңғы зерттеушілердің тәжірибесін сипаттау арқылы тақырыпты таңдауды негіздеуде проблемалық жағдайдың бар екені (қандай да бір зерттеулердің болмауы, жаңа объектінің пайда болуы және т.б.) туралы

хабарланады. Тақырыптың өзектілігі осы объектіні зерттеуге деген жалпы қызығушылықпен анықталады, бірақ бар сұрақтарға толық жауаптардың жоқтығы тақырыптың теориялық немесе практикалық маңыздылығымен дәлелденеді.

- жұмыстың объектісін, тақырыбын, мақсаттарын, міндеттерін, әдістерін, тәсілдерін, гипотеза мен мәнін анықтау. Зерттеудің мақсаты тезисті дәлелдеумен, яғни автордың таңдаған аспектісінде зерттеу тақырыбын ұсынумен байланысты болады.

Материалдар мен әдістер (Materials and methods) бөлімі материалдардың сипаттамасынан, сондай-ақ қолданылған әдістердің толық сипаттамасынан тұруы керек.

Ғылыми әдістеме мыналарды қамтуы керек:

- зерттеу сұрақтары;
- ұсынылған гипотеза (тезис);
- зерттеу кезеңдері;
- зерттеу әдістері.

Зерттеу материалының сипаттамасы оны сапалық және сандық тұрғыдан ұсынуды қамтиды. Материалдың сипаттамасы (халықаралық-құқықтық актілер, НҚА, мемлекеттік бағдарламалық құжаттар, ресми статистика, ғалымдардың еңбектері және т.б.) – зерттеу нәтижелері мен әдістерінің дұрыстығын анықтайтын факторлардың бірі.

Егер мақаламен жұмыс істеу барысында жасанды интеллект (ChatGPT) пайдаланылған болса, бұл туралы осы бөлімде айтылады.

Нәтижелер мен талқылау (Results and Discussion) – мақаланың маңызды бөлімдерінің бірі. Бөлімде зерттеу нәтижелерін талдау және талқылау келтіріледі. Зерттеу барысында алынған нәтижелер бойынша тұжырымдар келтіріледі, негізгі мәні ашылады. Онда жұмыс нәтижелері талдануы және алдыңғы жұмыстармен, талдаулармен және қорытындылармен салыстырыла отырып, тиісті нәтижелер талқылануы қажет.

Қорытынды (Conclusion) – осы кезеңдегі жұмысты жалпылау және қорытындылау, автор айтқан тұжырымның ақиқатын растау және алынған нәтижелерді ескере отырып, ғылыми білімнің өзгеруі туралы автордың қорытындысы. Тұжырымдар абстрактілі болмауы керек, олар ұсыныстарды немесе одан әрі жұмыс істеу мүмкіндіктерін сипаттай отырып, белгілі бір ғылыми саладағы зерттеу нәтижелерін жалпылау үшін пайдаланылуы керек.

Қорытынды құрылымы келесі сұрақтарды қамтуы керек: зерттеудің мақсаттары мен әдістері қандай? Қандай нәтижелер алынды? Қандай тұжырымдар бар? Нәтижелерді енгізу, қолдану перспективалары мен мүмкіндіктері қандай?

Әдебиетке шолу (Literature review) секциясында отандық және шетелдік авторлардың зерттелген тақырып бойынша іргелі және жаңа еңбектері, осы еңбектерді олардың ғылыми үлестері тұрғысынан талдау, сондай-ақ зерттеудегі олқылықтар қамтылуға тиіс.

Жұмысқа қатысы жоқ көптеген сілтемелерге немесе автордың өз жетістіктері туралы орынсыз пікірлерге, автордың алдыңғы жұмыстарына сілтемелерге **ЖОЛ БЕРІЛМЕЙДІ**.

Осы талаптардың біреуінің өзі сақталмаған жағдайда мақала қарауға қабылданбайды.

5. Кестелер тікелей жұмыс мәтініне енгізіледі. Олар нөмірленіп, жұмыс мәтінінде оларға сілтеме жасалуы керек. Суреттер, графиктер стандартты форматтардың бірінде ұсынылуы керек: PS, PDF, TIFF, GIF, JPEG, BMP, PCX. Нүктелік сызбалар 600 dpi ажыратымдылығымен орындалуы керек. Суреттерде барлық мәліметтер нақты көрсетілуі керек.

6. Әдебиеттер тізімінде тек жұмыс мәтінінде сілтемелері бар дереккөздер (дәйексөз тәртібімен немесе ағылшын алфавитінің тәртібімен нөмірленген) болуы керек. Жарияланбаған жұмыстарға сілтеме жасауға жол берілмейді. Әдебиеттер тізімі 7-ден астам дереккөзден тұруы керек.

Әдебиеттер тізімінде соңғы 10 жылда жарияланған дереккөздер кемінде 50% болуы керек. Сілтемелер берілген дереккөздердің сапасы мен саны мақаланың өзектілігін көрсетеді. Сондықтан авторларға келесі нұсқауларды орындау ұсынылады:

мақала авторлары мен бірлескен авторларының әдебиеттер тізіміндегі жарияланымдарының рұқсат етілген саны жалпы санның 20%-дан аспауға тиіс.

7. Әдебиеттер тізімін рәсімдеу

2025 жылдың екінші номерінен бастап ЕАХҚЖ-на библиографияны құрастырған кезде Harvard Referencing Style қолдану ұсынылады.

Harvard Referencing Style қолданған кезде әдебиеттер тізімін қалыптастыру алфавиттік тәртіппен жүзеге асырылады. Нөмірлеу қарастырылмаған. **Библиографиялық тізімде** мақалада келтірілген барлық кітаптар, мақалалар, диссертациялар және басқа да ғылыми еңбектер көрсетілуі керек. Тізім жұмыстың соңында орналастырылады. Автордың аты-жөні, жарияланған жылы, атауы, шыққан жері және баспасы көрсетіледі.

Кітаптардағы тараулар, мақалалардың атаулары **ағылшын тіліндегі “тырнақшалармен”** белгіленеді.

Мәтіндік сілтемелер. Гарвард дәйексөз жүйесін қолданған кезде, мәтінішілік дәйексөздер сіздің хатыңыздың мәтініндегі дереккөз туралы маңызды ақпарат береді. Әрбір дәйексөзде автордың тегі, жарияланған жылы және бет нөмірі көрсетіледі. Әдетте, мұның бәрі жақша ішінде көрсетілген. Мысалы, стандартты дәйексөз (Jones, 2024) немесе белгілі бір бетке сілтеме жасағанда (Jones, 2024, p. 23) түрінде болады.

Авторды (ларды) көрсету. Автордың тегі жазылады, үтір қойылады, одан кейін оның инициалдары көрсетіледі. Бір автордың бірнеше жұмысына сілтемелер хронологиялық тәртіпте беріледі. Автордың бір жылы жарияланған

жұмыстарына сілтеме жасағанда, басылым жылына латын әріптерін (а, в, с) және т.б. қосу арқылы жұмыстарды бөліп көрсету керек (Jackson, A., 2024a: 12), (Jackson, A., 2024b: 75-76).

Егер мақаланы екі автор дайындаған болса, олардың фамилияларының арасына “and” жалғаулығы жазылады. Егер үш автор болса, онда бірінші және екінші автор үтірмен, екінші және үшінші авторлар “and” жалғаулығымен бөлінеді. Авторлар үштен көп болған кезде алғашқы үшеуі үтір арқылы көрсетіледі, содан кейін **және т.б. (et al.)** қойылады: (Jackson, A., Doe, A., Brown et al., 2022).

Халықаралық-құқықтық актілерге, мемлекетішілік нормативтік құқықтық актілерге, мемлекеттік бағдарламаларға және т.б. сілтемелер дәйексөз келтіруге қарай жұмыстың соңында сілтемелер түрінде ресімделеді.

Келтірілген басылымның атауы *курсивпен* белгіленеді.

Кітаптарға сілтемелерді рәсімдеу:

Автордың тегі, аты-жөні, үтір; (жақшаның ішінде басылым жылы) – үтір; кітаптың атауы – *курсивпен*; басылым нөмірі (егер екінші және одан кейінгі басылымға сілтеме жасалса) – үтір; баспагер (баспахана) – үтір; басылым қаласы – нүкте.

Мысалы: Смит, Дж., (2021), *Введение в социологию*. Изд. 2, Routledge, Лондон.

Интернет-дерексөздер: Егер дереккөз электронды түрде келтірілсе, онда соңында available at: жүгіну кезіндегі толық URL көрсетілуі керек.

Мысалы: Всемирная организация здравоохранения (2023). *Глобальные тенденции в области здравоохранения*, ВОЗ, [https://www.who.int/]. Accessed: 10 October 2023.

Кітаптардың тарауларына сілтемелер. Аты-жөні (жылы), “Тараудың атауы”, редакторлардың аты-жөні, *Кітаптың атауы курсивпен* [Кітап атауының аудармасы], басылымның №, баспа, қала, ел, тараудың бет нөмірлері көрсетіледі.

Журнал мақалаларына сілтемелер: Аты-жөні, (жақша ішінде жарияланған жылы), *мақаланың атауы – курсивпен*, журналдың нөмірі, журналдың атауы, мақала беттерінің нөмірлері.

Мысалы: Doe, A. (2019). “Exploring Modern Art”, №4 (12), Art Journal, pp. 34-50.

Электронды журналдарға сілтеме: тегі, аты, шыққан жылы, “Тырнақшаның ішінде мақаланың атауы”, *курсивпен журналдың атауы*, том нөмірі немесе шығарылым нөмірі, мақала беттерінің нөмірлері, available at: жүгінген кездегі толық URL.

Әдебиеттер тізімінен (пайдаланылған дереккөздерден) кейін мақалаға транслитерацияланған әдебиеттер тізімін (**References**) қосып қойыңыз.

Әдебиеттер тізімінен (**References**) кейін авторлардың әрқайсысы туралы мәліметтерді (аты-жөні, ғылыми дәрежесі, ғылыми атағы, лауазымы, жұмыс орны, мекен-жайы, қаласы, елі, телефоны, E-mail, ORCID) қазақ, орыс және ағылшын тілдерінде көрсету қажет.

Гарвард стилі туралы толығырақ қараңыз:

Ағылшын тілінде: <http://www.citethisforme.com/harvard-referencing>

<https://librarydevelopment.group.shef.ac.uk/Assets/pdfs/referencing/harvard.pdf>

<https://www.adelaide.edu.au/library/ua/media/4332/library-qrg-harvard-referencing.pdf>

Орыс тілінде: https://lib.herzen.spb.ru/media/manual/harvard_style.pdf

https://geo.tsu.ru/content/faculty/structure/chair/tourism/Фоторалерея/standart_Harvard.pdf

Руководство для авторов при подаче статей в “Евразийский журнал международного права”

Редакция Журнала просит авторов ознакомиться с правилами (редакционной политикой Журнала, содержащей общую информацию о Журнале, процедуре рассмотрения статей, публикационной этике) для их соблюдения при подготовке работ, направляемых в журнал.

1. Отправление статьи в редакцию означает согласие автора (авторов, **максимальное количество – 3 человека**) на право Издателя – Евразийского национального университета имени Л.Н. Гумилева, издания статьи в журнале и переиздания ее на любом иностранном языке.

Не допускается более 1 публикации от одного автора в одном и том же номере журнала. Ответственность за содержание статьи несет автор (авторы).

2. В редакцию (через систему Open Journal System (OJS)) представляется статья в Word-формате (страница – А4, книжная ориентация, поля со всех сторон – 20 мм. Шрифт: тип – Times New Roman, размер (кегель) – 14);

МРНТИ <http://grnti.ru/> - первая строка, слева; инициалы и фамилию автора(ов) - выравнивание по центру, курсив; полное наименование организации, город, страна (если авторы работают в разных организациях, необходимо поставить одинаковый значок около фамилии автора и соответствующей организации; E-mail автора(ов) – в скобках курсив; название статьи – выравнивание по центру полужирным шрифтом). Стилизованный файл можно скачать с сайта журнала. Авторам необходимо представить два варианта рукописи, один из которой не должен содержать информацию об авторах (ФИО, место работы, сведения об авторах), так как для проведения двойного слепого рецензирования необходим анонимизированный текст. Также автору(ам) необходимо предоставить сопроводительное письмо (шаблон сопроводительного письма прикреплен на сайте журнала). Файлы статьи необходимо пронумеровать, назвать первыми 4-5 словами заголовка статьи (например: 1. О методике преподавания международного права – файл с авторами; 2. О методике преподавания международного права – файл без авторов).

3. Объем статьи не должен превышать 16 страниц (от 6 страниц). В расчет объема статьи не входят аннотация, ключевые слова, список литературы, референс, сведения об авторе на казахском, русском и английском языках. Работы, превышающие указанный объем, принимаются к публикации в исключительных случаях по особому решению редколлегии журнала.

4. Текст работы начинается с **рубрикатора МРНТИ** (Международный рубрикатор научно-технической информации; определяется по ссылке <http://grnti.ru/>), затем следуют ФИО (полные фамилия, имя, отчество автора(ов), ученая степень, ученое звание, должность, место работы, город, страна, ORCID

автора (ов); e-mail всех авторов (в том числе с указанием основного автора), заглавие статьи, аннотация, ключевые слова.

Аннотация (Abstract) представляет собой краткое изложение исследовательской статьи и используется для того, чтобы помочь читателю быстро понять суть статьи. Объем – не менее 150 и не более 200 слов на казахском, русском и английском языках. Структура аннотации включает в себя следующие пункты:

- Вступительное слово о теме исследования.
- Цель, основные направления и идеи научного исследования.
- Краткое описание научной и практической значимости работы.
- Краткое описание методологии исследования.
- Основные результаты и анализ, выводы исследовательской работы.
- Ценность проведенного исследования (внесенный вклад данной работы в соответствующую область знаний).
- Практическое значение итогов работы.

Ключевые слова (не более 7 слов или словосочетаний) должны отражать основное содержание статьи; определять предметную область исследования; встречаться в тексте статьи. Ключевые слова отделяются друг от друга запятой.

Авторы журнала должны в соответствии с заголовками придерживаться следующих правил по **структуре статьи**:

Статья должна иметь следующую структуру (первые три пункта – на казахском, английском, русском языках):

1. Заголовок и данные об авторе (авторах) – ФИО, ученая степень, ученое звание, должность, место работы, город, страна, ORCID автора (ов); электронная почта всех авторов публикаций (в том числе с указанием основного автора).

2. Аннотация (Abstract) (150-250 слов).

3. Ключевые слова (Keywords) (8-10 слов).

4. Введение (Introduction).

5. Материалы и методы (Materials and methods).

6. Результаты и обсуждение (Results and discussion).

7. Информация о финансировании (при наличии) (Acknowledgements).

8. Список литературы и наличие References – транслитерированного списка литературы (транслитерация осуществляется на сайте: <http://translit-online.ru>)

Для зарубежных авторов, приславших статьи на английском или русском языках, перевод названия статьи, сведений об авторах, Аннотация, Ключевые слова на казахский язык осуществляет Редакция журнала.

Введение (Introduction) состоит из следующих основных элементов:

○ Обоснование выбора темы; актуальность темы или проблемы. В обосновании выбора темы на основе описания опыта предшественников

сообщается о наличии проблемной ситуации (отсутствие каких-либо исследований, появление нового объекта и т.д.). Актуальность темы определяется общим интересом к изученности данного объекта, но отсутствием исчерпывающих ответов на имеющиеся вопросы, она доказывается теоретической или практической значимостью темы.

○ Определение объекта, предмета, целей, задач, методов, подходов, гипотезы и значения работы. Цель исследования связана с доказательством тезиса, то есть представлением предмета исследования в избранном автором аспекте.

Раздел Материалы и методы (Materials and methods) должен состоять из описания материалов, а также полного описания использованных методов.

Научная методология должна включать в себя:

- исследовательский вопрос(-ы);
- выдвигаемую гипотезу (тезис);
- этапы исследования;
- методы исследования.

○ Характеристика или описание материала исследования включает его представление в качественном и количественном отношении. Характеристика материала (международно-правовые акты, НПА, государственные программные документы, официальная статистика, труды ученых и др.) – один из факторов, определяющий достоверность выводов и методов исследования.

○ В этом разделе указывается, если это имело место, использование искусственного интеллекта (ChatGPT (чат ДЖИПТИ) при работе над статьей.

Результаты и Обсуждение (Results and Discussion) – один из самых важных разделов статьи. В разделе приводится анализ и обсуждение полученных результатов исследования. Приводятся выводы по полученным в ходе исследования результатам, раскрывается основная суть. В нем необходимо провести анализ результатов работы и обсуждение соответствующих результатов в сравнении с предыдущими работами, анализами и выводами.

○ **Заключение (Conclusion)** – обобщение и подведение итогов работы на данном этапе; подтверждение истинности выдвигаемого утверждения, высказанного автором, и заключение автора об изменении научного знания с учетом полученных результатов. Выводы не должны быть абстрактными, они должны быть использованы для обобщения результатов исследования в той или иной научной области, с описанием предложений или возможностей дальнейшей работы.

○ Структура заключения должна содержать следующие вопросы: Каковы цели и методы исследования? Какие результаты получены? Каковы выводы? Каковы перспективы и возможности внедрения, применения результатов?

○ В секции **Обзор литературы (Literature review)** должны быть охвачены фундаментальные и новые труды по исследуемой тематике

отечественных и зарубежных авторов, анализ данных трудов с точки зрения их научного вклада, а также пробелы в исследовании.

○ **НЕДОПУСТИМО** наличие множества ссылок, не имеющих отношения к работе, или неуместные суждения о собственных достижениях автора, ссылки на предыдущие работы автора.

При несоблюдении хотя бы одного из этих требований статья не принимается к рассмотрению.

5. Таблицы включаются непосредственно в текст работы. Они должны быть пронумерованы и сопровождаться ссылкой на них в тексте работы. Рисунки, графики должны быть представлены в одном из стандартных форматов: PS, PDF, TIFF, GIF, JPEG, BMP, PCX. Точечные рисунки необходимо выполнять с разрешением 600 dpi. На рисунках должны быть ясно переданы все детали.

6. Список литературы должен содержать только те источники (пронумерованные в порядке цитирования или в порядке английского алфавита), на которые имеются ссылки в тексте работы. Ссылки на неопубликованные работы не допускаются. Список литературы должен состоять из более чем 7 источников.

Список литературы должен содержать не менее 50% источников, опубликованные за последние 10 лет. Качество и количество источников, на которые даны ссылки, указывают на актуальность статьи. Поэтому авторам рекомендуется придерживаться следующих инструкций:

допустимое количество публикаций авторов и соавторов статьи в списке литературы не должно превышать 20% от общего числа.

7. Оформление списка литературы

Со второго номера ЕАЖМП 2025 года при составлении библиографии рекомендуется применять Harvard Referencing Style

При применении **Harvard Referencing Style** формирование списка литературы осуществляется в алфавитном порядке. Нумерация не предусмотрена. В **библиографическом списке** должны отражаться все книги, статьи, диссертации и др. научные труды, процитированные в статье. Список размещается в конце работы. Указываются имя автора, год публикации, название, место издания и издательство.

Главы в книгах, названия статей выделяются **английскими “кавычками”**.

Текстовые ссылки. При использовании Гарвардской системы цитирования, внутритекстовые цитаты предоставляют важную информацию об источнике в тексте вашего письма. Каждая цитата включает фамилию автора, год публикации и номер страницы. Как правило, все это указывается в круглых

скобках. Например, стандартная цитата может выглядеть как (Jones, 2024) или (Jones, 2024, p. 23) при ссылке на конкретную страницу.

Указание на автора(ов). Указывается фамилия автора и затем, после запятой, его инициалы. Ссылки более чем на одну работу одного и того же автора излагаются в хронологическом порядке. При ссылках на работы автора, опубликованных в одном и том же году, следует различать работы, добавляя латинские буквы (a, b, c) и т.д. к году издания (Jackson, A., 2024a: 12), (Jackson, A., 2024b: 75-76).

Если статью подготовили два автора, их фамилии разделяются между собой союзом “and”. Если три автора, то первый и второй разделяются запятой, второй и третий – союзом “and”. Когда авторов больше трех, указываются через запятые первые три, после чего ставится: **и др. (et al.)**: (Jackson, A., Doe, A., Brown et al., 2022).

Ссылки на международно-правовые акты, внутригосударственные нормативные правовые акты, государственные программы и т.д. оформляются в виде концевых ссылок по мере цитирования.

Название цитируемой публикации выделяется *курсивом*.

Оформление ссылок на книги должно содержать:

Фамилия, инициалы автора, запятая; (год издания в скобках) – запятая; название книги – *курсивом*; номер издания (если цитируется второе и последующее издание) – запятая; издатель (типография) – запятая; город издания – точка.

Пример: Смит, Дж., (2021), *Введение в социологию*. Изд. 2, Routledge, Лондон.

Интернет-источники: Если источник цитируется в электронном виде, то нужно в конце указать: полный URL на момент обращения (available at:).

Пример: Всемирная организация здравоохранения (2023). *Глобальные тенденции в области здравоохранения*, ВОЗ, [https://www.who.int/]. Accessed: 10 October 2023.

Ссылки на главы книг. Указывается Фамилия, И.О. автора, (год), “Название главы”, Фамилии, И.О. редакторов, *Название книги курсивом* [Перевод названия книги], № издания, издательство, город, страна, номера страниц главы.

Структура ссылки на журнальные статьи: фамилия и инициалы; (год издания в скобках); *название статьи - курсивом*; номер журнала, название журнала; номера страниц статьи.

Пример: Doe, A. (2019). “Exploring Modern Art”, №4 (12), Art Journal, pp. 34-50.

Ссылка на электронные журналы: фамилия, имя, год издания, “Название статьи в кавычках”, *название журнала курсивом*, том № или выпуск номер такой-то, номера страниц статьи, available at: полный URL на момент обращения.

Продублировать список литературы (используемых источников) транслитерированным списком литературы (**References**) к статье.

После **References** необходимо указать сведения по каждому из авторов (имя и фамилия, ученая степень, ученое звание, должность, место работы, город, страна, e-mail, ORCID) – на казахском, русском и английском языках).

См. более подробно о Гарвардском стиле:

На английском языке: <http://www.citethisforme.com/harvard-referencing>

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<https://www.adelaide.edu.au/library/ua/media/4332/library-qrg-harvard-referencing.pdf>

На русском языке: https://lib.herzen.spb.ru/media/manual/harvard_style.pdf

https://geo.tsu.ru/content/faculty/structure/chair/tourism/Фотогалерея/standart_Harvard.pdf

A guide for authors when submitting articles to the Eurasian Journal of International Law

The editorial board of the Journal asks the authors to familiarize themselves with the rules (the editorial policy of the Journal containing general information about the Journal, the procedure for reviewing articles, publication ethics) in order to comply with them when preparing papers sent to the journal.

1. Sending an article to the editorial office means the consent of the author (the maximum number of authors is 3 people) to the right of the Publisher – L.N. Gumilyov Eurasian National University, to publish the article in the journal and republish it in any foreign language.

No more than 1 publication from the same author in the same issue of the journal is allowed. The author(s) is responsible for the content of the article.

2. An article is submitted to the editorial office (via the Open Journal System (OJS)) in Word format (A4 page, portrait orientation, margins on all sides - 20 mm. Font: type – Times New Roman, size (size) – 14);

MRNTI <http://grnti.ru> / - first line, on the left; initials and surname of the author(s) - centered alignment, italics; full name of the organization, city, country (if the authors work in different organizations, you must put the same icon next to the surname of the author and the corresponding organization; E-mail of the author(s) – italics in parentheses; the title of the article is centered in bold). The style file can be downloaded from the magazine's website. The authors need to submit two versions of the manuscript, one of which should not contain information about the authors (full name, place of work, information about the authors), since an anonymized text is required for conducting a double-blind review. The author(s) must also provide a cover letter (the cover letter template is attached on the journal's website). The article files must be numbered and named with the first 4-5 words of the article title (for example: 1. On the methodology of teaching international law – a file with the authors; 2. On the methodology of teaching international law – file without authors).

3. The length of the article should not exceed 16 pages (from 6 pages). The calculation of the volume of the article does not include an abstract, keywords, a list of references, a reference, information about the author in Kazakh, Russian and English. Works exceeding the specified volume are accepted for publication in exceptional cases by a special decision of the editorial board of the journal.

4. The text of the work begins with the MRNTI rubricator (International rubricator of scientific and technical information; determined by the link <http://grnti.ru> /), followed by full name (full surname, first name, patronymic of the author(s), academic degree, academic title, position, place of work, city, country, ORCID of the author(s); e-mail of all authors (including the main author), title of the article, abstract, keywords.

An abstract is a summary of a research article and is used to help the reader quickly understand the essence of the article. The volume is not less than 150 and not more than 200 words in Kazakh, Russian and English. The structure of the abstract includes the following points:

- Introductory remarks on the topic of the study.
- The purpose, main directions and ideas of scientific research.
- A brief description of the scientific and practical significance of the work.
- A brief description of the research methodology.
- Main results and analysis, conclusions of the research work.
- The value of the research (the contribution of this work to the relevant field of knowledge).
- The practical significance of the results of the work.

Keywords (no more than 7 words or phrases) should reflect the main content of the article; determine the subject area of the study; occur in the text of the article. Keywords are separated from each other by a comma.

The authors of the journal must adhere to the following rules on **the structure of the article** in accordance with the headings:

The article should have the following structure (*the first three paragraphs are in Kazakh, English, Russian*):

1. *Title and information about the author(s) – full name, academic degree, academic title, position, place of work, city, country, ORCID of the author(s); e-mail of all authors of publications (including indicating the main author).*

2. *Abstract (150-250 words).*

3. *Keywords (8-10 words).*

4. *Introduction.*

5. *Materials and methods.*

6. *Results and discussion.*

7. *Information about financing (if available) (Acknowledgements).*

8. *The list of references and the availability of References – a transliterated list of references (transliteration is carried out on the website: <http://translit-online.ru>).*

For foreign authors who have sent articles in English or Russian, the translation of the title of the article, information about the authors, Abstract, Keywords into Kazakh is carried out by the Editorial Board of the journal.

The Introduction consists of the following main elements:

The rationale for choosing a topic; the relevance of the topic or problem. In justifying the choice of a topic based on the description of the experience of predecessors, it is reported that there is a problematic situation (the absence of any research, the appearance of a new object, etc.). The relevance of the topic is determined by the general interest in the study of this object, but the lack of comprehensive answers to existing questions, it is proved by the theoretical or practical significance of the topic.

Definition of the object, subject, goals, objectives, methods, approaches, hypotheses and the meaning of the work. The purpose of the research is related to the

proof of the thesis, that is, the presentation of the subject of research in the aspect chosen by the author.

The Materials and methods section should consist of a description of the materials, as well as a complete description of the methods used.

The scientific methodology should include:

- research question(s);
- proposed hypothesis (thesis);
- stages of the study;
- research methods.

The characteristic or description of the research material includes its presentation in qualitative and quantitative terms. The characteristics of the material (international legal acts, LRA, state program documents, official statistics, works of scientists, etc.) are one of the factors determining the reliability of the conclusions and research methods.

This section indicates, if this was the case, the use of artificial intelligence (ChatGPT) when working on an article.

Results and Discussion is one of the most important sections of the article. The section provides an analysis and discussion of the results of the study. The conclusions based on the results obtained during the study are presented, the main essence is revealed. It is necessary to analyze the results of the work and discuss the relevant results in comparison with previous works, analyses and conclusions.

Conclusion – generalization and summing up of the work at this stage; confirmation of the truth of the statement put forward by the author, and the author's conclusion about the change in scientific knowledge, taking into account the results obtained. Conclusions should not be abstract, they should be used to summarize the results of research in a particular scientific field, with a description of proposals or opportunities for further work.

The structure of the conclusion should contain the following questions: What are the goals and methods of the study? What results have been obtained? What are the conclusions? What are the prospects and opportunities for the implementation and application of the results?

The Literature review section should cover fundamental and new works on the subject of study by domestic and foreign authors, analysis of these works from the point of view of their scientific contribution, as well as gaps in the study.

It is **UNACCEPTABLE** to have many links unrelated to the work, or inappropriate judgments about the author's own achievements, links to previous works by the author.

If at least one of these requirements is not met, the article will not be accepted for consideration.

5. **Tables** are included directly in the text of the work. They should be numbered and accompanied by a reference to them in the text of the work. Drawings and graphs should be presented in one of the standard formats: PS, PDF, TIFF, GIF, JPEG, BMP,

PCX. Bitmaps must be executed with a resolution of 600 dpi. All details should be clearly conveyed in the drawings.

6. The list of references should contain only those sources (numbered in the order of citation or in the order of the English alphabet) to which there are references in the text of the work. References to unpublished works are not allowed. The list of references should consist of more than 7 sources.

The list of references should contain at least 50% of the sources published in the last 10 years. The quality and quantity of the sources referenced indicate the relevance of the article. Therefore, authors are advised to follow the following instructions:

The permissible number of publications of authors and co-authors of an article in the list of references should not exceed 20% of the total number.

7. Design of the bibliography

From the second issue of the EAJIL in 2025, it is recommended to use Harvard Referencing Style when compiling a bibliography.

When using **the Harvard Referencing Style**, the list of references is formed in alphabetical order. Numbering is not provided. The bibliographic list must reflect all books, articles, dissertations and other scientific works cited in the article. The list is placed at the end of the paper. The author's name, year of publication, title, place of publication and publisher are indicated. Chapters in books, titles of articles are highlighted with English **“quotation marks”**.

In-text citations. When using the Harvard Citation System, in-text citations provide important information about the source within the body of your letter. Each citation includes the author's last name, year of publication, and page number, typically enclosed in parentheses. For example, a standard citation might look like (Jones, 2024) or (Jones, 2024, p. 23) when referring to a specific page.

Indication of the author(s). The author's surname and then, after a comma, his initials are indicated. References to more than one work by the same author are presented in chronological order. When referring to works by an author published in the same year, the works should be distinguished by adding Latin letters (a, b, c), etc. to the year of publication (Jackson, A., 2024a: 12), (Jackson, A., 2024b: 75-76).

If the article was prepared by two authors, their surnames are separated by the conjunction "and". If there are three authors, then the first and second are separated by a comma, the second and third by the conjunction “and”. When there are more than three authors, the first three are indicated, separated by commas, followed by: et al. (et al.): (Jackson, A., Doe, A., Brown et al., 2022).

References to international legal acts, domestic regulatory legal acts, state programs, etc. are formatted as end references as they are cited.

The title of the cited publication is highlighted in *italics*.

References to books should contain:

Author's last name, initials, comma; (year of publication in brackets) - comma; book title - in italics; edition number (if citing the second or subsequent edition) - comma; publisher (printing house) - comma; city of publication - period.

Example: Smith, J., (2021), *Introduction to Sociology*. 2nd ed., Routledge, London.

Internet sources: If the source is cited electronically, then at the end it is necessary to indicate: the full URL at the time of access (available at:).

Example: World Health Organization (2023). *Global health trends*, WHO, [https://www.who.int/]. Accessed: 10 October 2023.

References to book chapters. The following are indicated: Last name, First name, (year), "*Chapter title*", Last name, First name, Editors, Book title in italics [Translation of book title], Edition number, publisher, city, country, chapter page numbers.

Structure of references to journal articles: last name and initials; (year of publication in brackets); article title - in italics; journal issue, journal title; article page numbers.

Example: Doe, A. (2019). "*Exploring Modern Art*", №4 (12), *Art Journal*, pp. 34-50.

Link to electronic journals: last name, first name, year of publication, "Article title in quotation marks", *journal title in italics*, volume no. or issue number such-and-such, article page numbers, available at: full URL at the time of access.

Duplicate the list of references (sources used) with a transliterated list of references (**References**) to the article.

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