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The influence of the current law of the Astana International Financial Center on the development of the legal system of Kazakhstan

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Abstract

Relevance. The relevance of the problem under study lies in the need to study the legal system of the Republic of Kazakhstan and the functioning Astana International Financial Center (AIFC), the current law of which interacts with the current law of the Republic of Kazakhstan.

Purpose. In this regard, the purpose of this article is to explore the interaction between the current law of the Astana International Financial Center and the current law of the Republic of Kazakhstan.

Methodology. The method that was used to achieve the goal became systemic, functional, and hermeneutic were used as auxiliary ones.

Results. The main results of this study: it was revealed that the current AIFC law and the current law of the Republic of Kazakhstan function as two independent institutions in accordance with the amendments to the Basic Law of Kazakhstan, complementing and mutually enriching each other. It is proved that the norms, principles, and precedents of the Anglo-Saxon legal system have a positive impact on the development of the legislative sphere of Kazakhstan, taking into account the national law of the Republic. An analysis is presented of how decisions and orders made on the territory of the AIFC are limited by acts of the court. The interaction and mutual influence of the current law of the Center with the system of generally binding norms of the Republic of Kazakhstan is substantiated. The theoretical aspects of the concept of the reception of law are disclosed. Also, in the course of the study, two approaches were revealed to the study of the

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functioning of the current law of the organization declared in the subject of the article, including the Anglo-Saxon legal system, and the system of generally binding norms of the Republic of Kazakhstan.

Conclusions. The practical significance of the article lies in proving that the jurisdiction of the above organizations, in the form of court decisions, extends not only to the territory of AIFC, located within the city of Astana – where a special legal regime prevails, but also throughout the territory of the Republic of Kazakhstan.

Keywords: legal requirements; legislation; judicial acts; legal system of England and Wales; mutual influence of cultures.

Introduction

Convergence of the Romano-Germanic and Anglo-Saxon legal systems – is a hot topic for research. To date, all spheres of human life have undergone processes of integration and unification of the economic, political, cultural and religious spheres. Strengthening globalization is becoming a driver that affects the convergence of legal systems in the world economy. The interchange of knowledge of people and the capital of states generates academic interest and practical needs in the study of the legislative system of another state. The problem of convergence has been dealt with to some extent in jurisprudence by I. Rogov [1], D.S. Batyrbekova [2; 3], S. Zhavoronkov et al. [4], M. Beer [5], H. Yeung et al. [6]. In his work, S.P. Moroz [7] considers legal convergence as the integration of unified legal entities into a coherent legal structure. That is, the legal systems of individual states can develop, while enriching the legal system of each other.

The research by R. Sarpekov [8] supplements previous studies by pointing out that legal convergence is the interaction between law and other regulators of relations in society. The convergence of the legal systems of different states is characterized by the degree of connection between legal objects. Important in understanding legal convergence is legal acculturation and legal reception. So, D.S. Batyrbekova [9] argues that acculturation occurs at the moment when states with different cultures, in continuous contact with each other, bring and acquire changes to the original model of culture of both states. And reception, according to research, is the state use of the provisions of the law of another state. Borrowing historical, sociological and cultural forms of one state in the formation and development of these areas of another state.

The evolution of the legal system of most developed and developing countries has reached the point where several legal families successfully function in the state, changing the usual model of following the strict doctrine of a particular school of law. Astana International Financial Center (AIFC) was established to provide international level communication with the world's leading financial centres of New York, London, Tokyo, Hong Kong, Singapore, Toronto, Chicago and Sydney, where this standard is being successfully implemented. The first three centres take a leading place in the interaction and mutual influence of the standards of world financial centres on the basis of common law. The creation of a financial centre model based on English law is aimed at improving the investment climate and diversifying the economy. In the works of I. Bantekas [10], the Anglo-Saxon legal system is a generalized system of most states of the British Commonwealth of Nations and is a case law. In the case law system, judicial acts can be repeatedly

applied at the level of a specific legal relationship, and sometimes acquire the quality of normativity.

In Kazakhstan, AIFC exists as an infrastructure tool to help transform financial markets into global investment flows in the Eurasian Economic Union. According to P.K. Bookman [11] for the full functioning of AIFC, it is necessary to improve the competitive workforce of the financial industry – nationally qualified personnel that meet the requirements of international business development; as well as to promote the opening of joint branches of enterprises and representative offices of foreign companies capable of working in accordance with the requirements of the global financial industry. Since the adoption of the Constitutional law of the Republic of Kazakhstan No. 438-V “On the Astana International Financial Center” [12], fundamental changes have taken place in the legislation of the Republic of Kazakhstan. Relevant changes Also touched upon the Constitution of the Republic of Kazakhstan [13]. The system of generally binding norms of the Republic of Kazakhstan is based on the principles of continental law. The basis of the Romano-Germanic legal system contains a normative legal act that comes from the state and obeys it. Decree of the President of the Republic of Kazakhstan No. 24 “On the Astana International Financial Center” [14] and is part of current rights Kazakhstan.

Considering all of the above, the purpose of this article is to study the features of borrowing elements of English common law into the legal system of Kazakhstan. In the course of studying the influence of the current AIFC law on the development of the legal system of Kazakhstan, general research methods in legal sciences were used: analysis and synthesis of the foundations of the formation of the state and law, analysis of the foundations of the constitutional law of the Republic of Kazakhstan, generalization of the main provisions of public law of states that created international financial centres; as well as a comparative analysis of the legal systems of states with a mixed legal system, the basic principles and categories of legal institutions. To achieve the goal of the study, conceptual approaches of jurisprudence were used: civilizational, hermeneutic, systemic, and functional.

With the help of a systematic approach, the regulatory framework of AIFC was studied. With the help of a functional approach, the judicial practice of the AIFC court from 2019 to 2023 is analysed. In addition, the normative legal base of the Republic of Kazakhstan was analysed: Constitutional Law of the Republic of Kazakhstan No. 438-V “On the Astana International Financial Center” [12], Constitution of the Republic of Kazakhstan [13], Decree of the President of the Republic of Kazakhstan No. 24 “On the Astana International Financial Center” [14] and other normative legal acts. With the help of the civilizational approach, the current law of both

organizations was studied as a socio-cultural system, including material and spiritual aspects, the existence of which cannot be imagined without the influence of these elements on each other. The hermeneutic approach described the features of the reception of the current AIFC law and the current legal norms of the Republic of Kazakhstan.

According to Strategy “Kazakhstan-2050”, the Republic of Kazakhstan needs to be among the 30 most developed countries in the world [15]. Achieving this goal largely depends on the judiciary, which is a criterion for successful economic and social development [16]. It is noted that without an independent and fair court it is impossible to create a favourable investment climate for foreign investors, a high level of well-being of citizens of any state and a successfully developed society. It should be noted that for investors, the factor of stability and predictability plays an important role in doing business, and the judicial system of Kazakhstan with elements of case law creates favourable conditions for the investment process.

Basic intelligence by Astana International Financial Center

Astana International Financial Center acts as an objective factor according to which English law functions in the territory of Kazakhstan. This centre acts as a space, a sphere of contact in the system of international relations. In the modern world, most countries borrow the experience of advanced states, however, it happens when foreign law completely replaces national law. Competently built relations of national law with foreign law complement each other. For example, national law is governed by international standards in the field of human rights protection, transactions; and foreign law, in turn, is regulated by the procedure for concluding international treaties and the activities of diplomatic missions. Thus, the principles, norms, and precedents of the law of England and Wales influence the emergence of relevant norms and principles in the law of the Republic of Kazakhstan, not replacing the legislative system of Kazakhstan, but strengthening and developing it through AIFC. That is, acts of foreign law are not valid on the territory of the Republic of Kazakhstan – this is the jurisdiction of the AIFC. In turn, the national Kazakh law regulates the content and effectiveness of foreign law on the territory of Kazakhstan. Thus, national law also influences foreign law. Since the introduction of amendments to the legislation of the Republic of Kazakhstan, it has become possible to join a number of international organizations and approve cooperation with leading investment companies.

The influence of foreign law on the law of the Republic of Kazakhstan is manifested in the exclusion of inactive and the emergence of new norms and principles dictated by common international law and regulated by international financial centres. Consistent and successful reform of the justice system, including through the introduction of an AIFC court independent in its activities and separate from the judicial system of the Republic of Kazakhstan, has a positive effect on increasing the competitiveness of the country, its legal system and economy, thereby contributing to the accelerated entry of the country into the TOP-30 most developed countries of

the world. Principles of AIFC current law adopted in the Constitutional law of the Republic of Kazakhstan No. 438-V “On the Astana International Financial Center” [12] include generally binding norms and key aspects:

- the legislative base is established on the basis of the current Constitutional Law of the Republic of Kazakhstan;
- complies with the rules and precedents of the law of England and Wales;
- legal jurisdiction is limited to a certain territory;
- meets the standards of the world’s leading financial centres;
- Key aspects of the position:
- AIFC acts are based on the principles, rules, and precedents of England and Wales;
- the court accepts for consideration those conflicts that can be settled by the current AIFC law;
- the AIFC Court shall govern its decisions in accordance with the valid acts of the Center and other common law jurisdictions.

Judging from the above, the system of generally binding AIFC norms is subject to the Constitution of the Republic of Kazakhstan. Key aspects of AIFC law are the most controversial issue when analysing the legal status of this AIFC. In particular, the interaction of the provisions of the current AIFC law with elements of the law of England and Wales and the system of generally binding legal norms of the Republic of Kazakhstan. In this study, two approaches were used to address this issue:

1. The current AIFC law borrows certain elements of foreign law. However, these elements do not replace the legal system of Kazakhstan, but complement it and form the unique right of the AIFC itself.

2. The current law of the AIFC includes in its content the norms of foreign law, including the norms, principles, and precedents of the law of England and Wales, and the decisions of the AIFC Court are based on the current law of the AIFC, its jurisdiction extends beyond the capital of Kazakhstan and may extend to the entire territory of the Republic of Kazakhstan, beyond due to the fact that the decisions themselves are executed in accordance with the legislation of Kazakhstan.

Corresponding Constitutional law of the Republic of Kazakhstan No. 438-V “On the Astana International Financial Center” [12] governs AIFC adjudication throughout the state. Respective changes touched Articles of Civil procedural code of the Republic of Kazakhstan No. 377-V LRK [17]. Thus, a conflict in civil law relations may be referred to the AIFC court for consideration if this is not prohibited by the legislation of the Republic of Kazakhstan, or resolved during the negotiation process with the obligatory participation of lawyers without a judge and fixed in a written agreement. The presiding judge, according to the aforementioned law, is obliged to find out from both parties to the conflict about their readiness to resolve the dispute peacefully, or to involve the AIFC court in making a decision.

Since the introduction of AIFC, Kazakhstan has become the most advanced in the economic sector of the Central Asian region. The five countries of Central Asia: Kazakhstan, Uzbekistan, Tajikistan, Kyrgyzstan,

Turkmenistan is a market where investors and financial institutions can earn. And Kazakhstan has become a regional hub through which foreign investors will be able to project the geography of their investments. Over time, thanks to the changes and additions that were made to the Constitutional law of the Republic of Kazakhstan No. 438-V “On the Astana International Financial Center” [12] and provide for a special legal regime in the financial sector within the city of Astana, which kind of provided a legal basis at the highest legislative level for the functioning of the AIFC with its own effective law, an independent Court and Arbitration Center, as well as other legal exceptions and from both rules, provided Kazakhstan with the opportunity to occupy a certain niche in the Eurasian Economic Union among the countries of the post-Soviet space.

The further perspective aimed at by the government of the Republic of Kazakhstan is to strengthen economic relations with the Shanghai Stock Exchange to create a global transport and investment infrastructure, the China Development Bank and the China Construction Bank. The role of AIFC in this project is to structure and analyse the services provided by the international financial centres of the outer economic ring and to make appropriate additions to the current AIFC law. Such modernization implies borrowing the experience of a foreign legal system; rejection of approaches that have lost their force in the regulation of legal relations; as well as a return to national law, which, in the course of the formation of Kazakh legislation, was distorted or destroyed. To date, the implementation of foreign law norms into national legislation does not occur without taking into account the legal traditions and culture of Kazakhstan. The advantage of such a position is the prosperity of the Kazakh society, increasing the level of well-being and security of the people. Such a system of law development allowed the judicial system of the Republic of Kazakhstan to improve the indicators of the competitiveness index by 39 points.

Theoretical information about the reception of law

The concepts of reception and acculturation of law are often identified, but it is worth noting that when defining these terms, researchers primarily start from the nature of borrowing: arbitrary or forced. In jurisprudence, reception is regarded as a voluntary process. Thus, I. Bantekas [18] notes that the process of borrowing the law of one state into the legal system of another state is realized consciously, voluntarily, without violating the basic paradigms of national law. In their studies, S. Cornell et al. [19] complement the concept of reception and prove that it can be occupational and colonial. The first, accordingly, implies a coercive nature, expressed in the strongest dependence on the legal system of the state from which legal acts and court decisions are borrowed. Based on this, the study proves that the reception is carried out under the pressure and influence of the country from which the elements of the current law are borrowed. However, the term “reception of law” does not imply the forcible transfer of legal material to the legal system of another state. In this case, R. Buckley et al. [20] argues that the term implies a voluntary government initiative in this process. H. Yeung et al. [6]. Thus, reception is defined as an expression of the will of the ruling elite in the activities of the legislator.

Acculturation occurs without will, while certain elements of legal culture must necessarily be enshrined in the legislation of another country.

The adoption of any legislative decision is based on the legal world-view ideology and legal policy issues that will be implemented in the future. So, for example, in the prospects for the development of the legal policy of the Republic of Kazakhstan, the concept of legal policy has been in effect for 10 years. The main idea of this concept was the need to borrow the effective legal experience of foreign legal systems. Thus, the legal ideology and political law is determined by the political leadership of the country, however, this choice is dictated by the economic policy of the state. After analysing the legislative sphere of AIFC and the Republic of Kazakhstan, it is necessary to conclude that the creation of AIFC was implemented on a voluntary basis, at the initiative of the First President of the Republic of Kazakhstan. However, it should be noted here that such an initiative of the First President of the Republic was mandatory for the legislative body of the country – the Parliament, which adopted the relevant laws, the Government of Kazakhstan and other state bodies and officials. The international financial centre of the UAE (Dubai) and other advanced countries – England (London), USA (New York), Singapore, based on the common law system, was taken as a basis. Borrowing of the Anglo-Saxon legal system became possible due to the amendments made to the Constitution of the Republic of Kazakhstan. These changes, in turn, are based on voluntary initiative.

In the following studies, the term acculturation is considered both a voluntary process and a forced one. So, according to N. Rehanna [21], acculturation is the process of mutual influence of the cultures of one state on another voluntarily or under duress. And legal acculturation, obeying the laws of the movement of law, acquires a global change and the legal development of a single country. On a planetary scale, reintegration is taking place – individual elements of a developed legal system replace a legal system that is inferior in development. Identifying the reception of law and the continuity of law, A. Koh et al. [22] define continuity as the borrowing of pre-existing or modern legal systems. This fact allows to assert that continuity and reception occurs, specifically, from a finished sample or model. In his study, C. Ku and A. Morris [23] shares the above concepts: continuity occurs at the moment when the legal material is formed in the course of the historical events of the country. Since between each historical stage in the development of law there is continuity – the retention, preservation, use of individual elements of the previous stage of legal development in the future. Thus, continuity in law connects the stages of development of law, and in this case, borrowing has an international character. Reception is not limited within its own state. The consumer country of foreign law can choose any legal system to be adopted. While succession implies spatial restrictions by one’s own state.

AIFC’s legal model was borrowed from common law countries that successfully implemented elements of case law by replicating them in their international financial centres, so there was no continuity. To describe the process of introducing foreign legal material, the term

“transplantation” is used and the concepts of “reception” and “transplantation” are equated. However, according to K. Głowacki et al. [24], reception is part of the general process of implementation of international legal norms, the implementation of which is carried out within state law. In international law, the concept of “reception” has not found general recognition. An attempt to draw parallels between the concepts of “reception” and “repeatability” in the works of N. Kassenova [25] led to the identification of these concepts in terms of focusing on one or another legal system. The former is characterized by an orientation towards foreign legal systems, while the latter is oriented towards the proper legal inheritance. Despite the fact that the concept of the reception of law originated two centuries ago, since the birth of Roman private law, and a lot of research experience in this area has been accumulated, I. Bantekas [10] notes that all this material has not been thoroughly studied to the end.

Most studies, generalizing the concept of reception, define it as borrowing the legal system of a more developed state into the legal system of a state with an outdated legislative system. However, in the studies of modern jurists, it is argued that in order to successfully borrow the legal system, the country-consumer of foreign law must have a sufficiently developed legal culture. Otherwise, the process of mutual consumption and interaction of legal systems will be long, or it will lead to the collapse of the legislative system. In this article, the reception of law is defined as a laborious process of borrowing, perception, adaptation of a legal idea, norms, and institutions that implement foreign law in the legal system of another state.

The role of AIFC in the development of the legal system of Kazakhstan

When choosing the subject of reception of foreign legal experience, the government of the country was guided by a system of criteria for missing links in national law. Also, when borrowing positive law, it is necessary to assess how the norms and institutions of foreign law are suitable for the legal system of a particular state. After analysing the acts of Astana International Financial Center shows that the reception of the Anglo-Saxon legal system into the system of generally binding legal norms of Kazakhstan has occurred partially. This fact is shown on the example of AIFC Regulations No. 31 [26], since this institution is not typical for the legal system of Kazakhstan. At the same time, it should be noted that in the Kazakh legislation of 1995, the institution of trust was introduced, but was not accepted by the legal system of Kazakhstan. However, today, thanks to the reception of the principles, norms, and precedents of the law of England and Wales into the current AIFC law, the institution of trust operates. According to the provision of the statutory law of England and Wales on trusts, the principles of equity adopted in this statute operate in the legal system of Kazakhstan indirectly through the operation of the AIFC, through changes that have been adopted in the rules and acts of the AIFC. In this case, the Anglo-Saxon legal system complements the system of generally binding legal norms of Kazakhstan. The exceptions are those cases that do not fall under the amended rules of the AIFC acts.

In turn, the acts of the AIFC court reproduced the norms of the Anglo-Saxon legal system. The first President of the

AIFC Court, Lord Wolfe, made a significant contribution to the improvement of the English civil judiciary. Thanks to him, civil justice in England was modernized, rules were developed that formed the basis of AIFC Court Rules [27]. The entry of legal norms, principles, and case law of England and Wales into the system of generally binding legal norms of AIFC occurs in accordance with the constitutional laws of Kazakhstan. About 100 AIFC acts have already been adopted. They reproduce the Anglo-Saxon legal system, due to which these norms become the general legal system of AIFC. In this case, English law comes into contact with the system of general legal norms of Kazakhstan. An example of a labour conflict that occurred in the summer of 2020 between a citizen of the Republic of Kazakhstan and a resident of the Republic of Kazakhstan LLP Proportunity Management Company was resolved with the help of AIFC acts. The court conflict occurred on the basis that the plaintiff demanded damages in the amount of about 200,000 tenge for violation of the employment contract before the specified deadline and without payment of compensation. The lawsuit was dismissed [28].

From this example, it can be concluded that the resolution of the conflict in favour of the plaintiff obliges the AIFC court to have legal force throughout the country. At the same time, there are no signs of the reception of precedents in this example, because during the four years of the functioning of the AIFC, there were no references in the court decisions on the application of any norms and rules of the Anglo-Saxon legal system. Although such a possibility is not ruled out, according to the Constitutional law of the Republic of Kazakhstan No. 438-V “On the Astana International Financial Center” [12], as well as the standards of the world’s leading financial centres. AIFC court is limited to the territory of the centre itself, isolated and independent of the national judicial system. That is why, in the example above, the claim was rejected, since conflicts that relate to administrative and criminal proceedings are not considered by the AIFC court. A case that requires a court decision is sent to the court of the Republic of Kazakhstan and resolved in accordance with the current criminal and administrative legislation.

In this regard, the undoubted advantage of the AIFC court is autonomy from the judicial and political system of the state. However, in recent years, the number of appeals to the AIFC court of a private nature has been increasing due to a number of advantages of this financial institution. Firstly, cases are handled by highly qualified judges in England and Wales; secondly, the court considers complex categories of cases, without clear deadlines for the consideration of the case. While in the courts of the classical judicial system of Kazakhstan, judges cannot always delve into the conflict, as they are limited in time, which, in turn, affects the quality of judicial acts. Thirdly, the extended limitation period: an action can be brought within 6 years after the cause of action arose, according to the AIFC litigation rules based on English law. Whereas the legislation of Kazakhstan provides for a 3-year limitation period.

The filing of claims, the schedule of consideration and the choice of a judge in the AIFC are strictly regulated. The use of the online litigation system allows filing a claim electronically from anywhere in the world, as well as

monitoring the process of making court decisions. Using the Dubai International Financial Center (DIFC) as an example, Emirati citizens are more likely to apply to the DIFC court even in cases of administrative violations [29]. It is worth noting that 90% of such minor disputes were considered and settled by the DIFC court in less than a month. Therefore, in Dubai, the concept of “dual jurisdiction” has been formed, in resolving civil and commercial cases, the citizens of the Emirate prefer the DIFC court, based on the rules of English common law, rather than local courts based on the norms of the Romano-Germanic legal system. The convergence of English law and the national legal system during the creation of the AIFC allows scientists and practitioners around the world to more deeply study the features of the Anglo-Saxon legal system when it is implemented in individual institutions or national legislation. Kazakh scientists and international experts consider it necessary to carry out a deep analysis of various aspects of the interaction of world legal systems in order to choose the optimal legal model.

So, for example, in the work of I. Rogov [1] describes that in the Islamic and venture capital market, the influence of the current AIFC law is only 2% of the entire global financial industry. Therefore, AIFC management is focused on the convergence of the principles of the Western financial system of Islamic law with the current law of the Republic of Kazakhstan, the relevant business ideologies of Islamic finance. At the same time, the borrowing of foreign experience must be approached consciously so as not to violate the integrity and originality of the legal system of Kazakhstan. The history of the development of the national legal system of each nation is formed on the basis of national traditions, cultural values, features of interstate and international relations. The power of a nation is expressed in respect for the laws of its state. The national law, created by the people, is a manifestation of strength and authority, the stability of the legal system of Kazakhstan. A similar principle is proved in this study, according to which the replacement of legal national values with the values of a foreign state indicates the uncertainty and weakness of national law. It is worth noting that this study proves how the process of convergence of the current law of AIFC and the Republic of Kazakhstan takes place taking into account the jurisdiction of national law on the territory of the entire state. Undoubtedly, the need for Kazakh law to develop, taking into account the experience of developed countries, is recognized as a strategic value, however, the culture of the Kazakh people is unique, which allows the Kazakh society to have its own legal system.

S. Cornell et al. [19] note that for the full functioning of AIFC in Kazakhstan, it is necessary to create a financial and legal platform on the basis of which talented young people will be able to access venture investments and ensure the protection of their intellectual property. The creation of such a platform is based on the experience of venture capital financing in the US Silicon Valley. Thus, the search for new technologies and ideas for the functioning of venture financing occurs through the creation of specialized development institutions. The intermediary activity of AIFC is to provide newly opened joint ventures, branches and representative offices of foreign companies in Kazakhstan. And the leadership of the Republic of Kazakhstan is focused on training a new

intellectual elite, in accordance with the requirements of the development of international business, from among the citizens of the country with minimal involvement of representative offices of foreign companies. Achieving this goal is ensured by training young people in the best universities and internships in global investment companies in the USA, Great Britain, and the European Union at the expense of the state.

In the modern world, most countries practice a legal model consisting of several legal systems. These include the province of Quebec (Canada), Scotland, Malaysia, the Philippines, Sri Lanka, Israel. So, I. Rogov [1] explored in his work the Scottish legal system, which is a mixture of legal fields. Unlike common English law, Scottish law is similar to the law of continental European states in terms of terminology, content, and principles of its application in courts. However, at the same time, it is an independent legal system, namely: Scottish common law includes not only judicial precedents, but also treatises of Scottish lawyers who enjoy authority in jurisprudence. Kazakhstan is one of the first countries in Central Asia to introduce the experience of a dual legal system, which allows international companies to safely invest their investments. As proved in this article, the basis of the political system of the Republic of Kazakhstan is a person and the protection of his rights and freedoms. The provisions of the constitution enshrine the obligation of the state to create such conditions that these rights are protected. A coalition from such countries, where a person occupies a key position in the socio-political system of the state, is a powerful driving force in the system of international financial relations. Each state in such an international organization must demonstrate a firm democratic position and put pressure on the source of human rights violations.

The Government of the Republic of Kazakhstan directed its policy towards rapprochement in international relations with the entire civilized world. And the state program “The Way to Europe” creates a basis for the development of bilateral relations not only for Kazakhstan, but for the whole of Central Asia. In his work, R. Sarpekov [8] presents an analysis of theoretical and practical directives aimed at bringing Kazakhstan closer to the European Union (EU). The Union of European States is interested in cooperation with the countries of Central Asia, especially in the field of finance. According to the results of the study in this article, Kazakhstan is already integrated into the global financial system due to the introduction of the principles of AIFC in force into the legal system. This means that most of the international norms and rules are implemented in the financial system of Kazakhstan. However, the main condition for cooperation with the EU is the security of the financial activities of foreign organizations. The financial sector of the Republic of Kazakhstan must provide guarantees of protection for foreign investors from illegal actions of state bodies and their officials. This article proves that the main aspects of the current AIFC law complement the legislation of the Republic of Kazakhstan, which, in turn, has an active impact on the development of the country’s financial sector.

So, using the example of advanced countries, one can observe how the norms of case law can be effectively applied and what is their advantage over the current law.

The conflict of legal systems is minimized through the competent application of various sources of law and their effective convergence. So, in the work of C. Ku and A. Morris [23] describes the experience of Israel, where in the system of current law there is an interaction and interpenetration of four legal systems at once. Israel's unique mixed legal system combines Romano-Germanic and Anglo-Saxon law, as well as two systems of religious law – Jewish and Muslim. This phenomenon of the successful functioning of incompatible elements of case law with the current law in a complex system was made possible by experienced lawmakers who worked closely with leading experts in jurisprudence for several years to create the current law of Israel. That is why, at the initiative of the President of Kazakhstan, the reform of the law enforcement and judicial system includes the education of Kazakh youth in the best schools and leading universities in the world. A similar example of a mixed legal system is the current law of Singapore. As one of the most advanced states in the financial field, the legal system is based on English common law, and judgments of a personal nature are enforced in accordance with the rights of the Chinese, Muslim, Hindu communities [22].

Summarizing the above, it should be noted that its own legal system is an attribute of each sovereign state and one of the most important elements of national culture. Accessible justice determines the level of the legal system of the country and, accordingly, the investment climate. According to the indications of the gross inflow of direct investments, in the economy of Kazakhstan over the past 10 years, the income amounted to 215 billion dollars [16]. AIFC's role in promoting investment in the economy of Kazakhstan is to create an attractive environment for the activities of local and foreign companies in the field of financial services. The AIFC court also acts as a separate legal institution that protects social and economic relations in accordance with English law. The introduction and use of a source of law that has earned authority in the world in the international financial market is an important step in improving the national justice system through the convergence of case law and civil law, as the main aspects of AIFC law and activities. An attempt to implement the principles of English law in the Kazakh legal system is dictated by the desire to maintain the competitiveness of the country and the need to follow world standards, one of the conditions of which is to reduce the influence of all kinds of external factors, such as corruption.

Conclusions

For any state, the highest value is a person, his life, and rights. Therefore, the government of Kazakhstan considered it its duty to carry out a number of reforms in the legal system, which allowed the Republic of Kazakhstan to enter the space of organizations practising the implementation of international legal centres. Given the peculiarity of the national standards of Kazakhstan, the transition process was not easy, but the government achieved its goal and created a national human rights

system. It is worth believing that the introduction of a special system of generally binding legal norms Astana International Financial Center based on the Anglo-Saxon legal system, are distributed throughout the territory of the Republic of Kazakhstan, and not only within the special legal regime of the city of Astana. According to the adopted amendments and additions to the legislation of the Republic of Kazakhstan, the procedure for the execution of AIFC judicial acts takes place in accordance with decisions on the execution of judicial acts of the Republic of Kazakhstan regulated by the Civil Procedural Code of the Republic of Kazakhstan. Thus, venture financing is determined by the legal system of Kazakhstan, as well as AIFC acts. Thus, the limits of the competence of the AIFC court, based on the provisions of the current law of England and Wales, the current law of the Republic of Kazakhstan, in accordance with the cases provided for by the legislative acts of Kazakhstan, cover the entire territory of this state.

In conclusion, this study proves that the reception of the Anglo-Saxon legal system through AIFC has a beneficial effect on the legislation of the Republic of Kazakhstan, as an example of a successful convergence of the legal system. Having an AIFC with its own law, which incorporates in its content the rules, principles, and precedents of the law of England and Wales, an independent English common law judiciary has particular advantages for both foreign and Kazakh investors. Confidence that independent, objective, high-quality justice will be provided creates a favourable investment climate. The prospect of further research may be to study the process of increasing the country's competitiveness in the international financial market through the consistent and successful reform of the justice system of Kazakhstan through the introduction of a separate AIFC judicial system.

Astana International Arbitration Center International Financial Center is currently not studied enough. Additional legal analysis is required by the features of alternative dispute resolution in the territory of AIFC. With the help of the results obtained in this study, it is possible to analyse how the activities of the AIFC will affect the legislation of the state, which is based on the Romano-Germanic legal system. According to this study, it can be assumed that the introduction of AIFC principles into the legislative systems of other Central Asian countries will be successful. However, this issue requires additional research among legal scholars. In addition, the popularization of scientific research in the legal, economic and financial spheres of Kazakhstan increases the competitiveness of the republic among international organizations.

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Conflict of Interest

None.

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Вплив чинного закону про Астанинський міжнародний фінансовий центр на розвиток правової системи Казахстану

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Анотація

Актуальність. Актуальність досліджуваної проблеми полягає в необхідності вивчення правової системи Республіки Казахстан і функціонуючого Астанинського міжнародного фінансового центру (АМФЦ), чинне право якого взаємодіє з чинним правом Республіки Казахстан.

Мета. У зв'язку з цим метою даної статті є дослідження взаємодії чинного законодавства АМФЦ з чинним законодавством Республіки Казахстан.

Методологія. Методом, який використовувався для досягнення поставленої мети, став системний, функціональний і герменевтичний використовувалися як допоміжні.

Результати. Основні результати дослідження: виявлено, що чинний закон про АІФК і чинне законодавство Республіки Казахстан функціонують як два самостійних інститути відповідно до внесених змін до Основного закону Казахстану, доповнюючи і взаємозбагачуючи один одного. Доведено, що норми, принципи і прецеденти англосаксонської правової системи позитивно впливають на розвиток законодавчої сфери Казахстану з урахуванням національного права Республіки. Представлено аналіз того, як рішення і розпорядження, прийняті на території АМФК, обмежуються актами суду. Обґрунтовується взаємодія і взаємовплив чинного права Центру з системою загальнообов'язкових норм Республіки Казахстан. Розкрито теоретичні аспекти концепції рецепції права. Також у ході дослідження виявлено два підходи до вивчення функціонування поточного права організації, задекларованої в предметі статті, зокрема англосаксонської правової системи, та системи загальнообов'язкових норм Республіки Казахстан.

Висновки. Практичне значення статті полягає в доведенні того, що юрисдикція вищезазначених організацій у формі судових рішень поширюється не тільки на територію АІФК, розташовану в межах міста Астани, де діє спеціальний правовий режим, а й на всю територію Республіки Казахстан.

Ключові слова: правові вимоги; законодавство; судові акти; правова система Англії та Уельсу; взаємовплив культур.