



ҚАЗАҚСТАН РЕСПУБЛИКАСЫ
ТҰҢҒЫШ ПРЕЗИДЕНТІ - ЕЛБАСЫНЫҢ ҚОРЫ

«ҒЫЛЫМ ЖӘНЕ БІЛІМ – 2017»

студенттер мен жас ғалымдардың
XII Халықаралық ғылыми конференциясының
БАЯНДАМАЛАР ЖИНАҒЫ

СБОРНИК МАТЕРИАЛОВ
XII Международной научной конференции
студентов и молодых ученых
«НАУКА И ОБРАЗОВАНИЕ – 2017»

PROCEEDINGS
of the XII International Scientific Conference
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«SCIENCE AND EDUCATION - 2017»



14th April 2017, Astana



**ҚАЗАҚСТАН РЕСПУБЛИКАСЫ БІЛІМ ЖӘНЕ ҒЫЛЫМ МИНИСТРЛІГІ
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The proceedings are the papers of students, undergraduates, doctoral students and young researchers on topical issues of natural and technical sciences and humanities.

В сборник вошли доклады студентов, магистрантов, докторантов и молодых ученых по актуальным вопросам естественно-технических и гуманитарных наук.

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THE INCREASED ACCESS TO JUSTICE IS THE REAL ACHIEVEMENT OF THE CIVIL PROCEDURE CODE OF THE REPUBLIC OF KAZAKHSTAN

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The Head of Kazakhstan signed a new Civil Procedure Code of the Republic of Kazakhstan on the October 31, 2016 [1]. The code was developed in order to implement the strategy of the President of the Republic of Kazakhstan N.A. Nazarbayev "Kazakhstan-2050" and a series of steps of the nation draft called "100 precise steps" [2], where it was noted that the most important issue in the legal policy is the realization by citizens of their right to judicial protection, which is guaranteed by the Constitution. The judge of the Supreme Court of Kazakhstan Suleymenova Ulbolsyn noted that the adoption of the new code of civil procedure of the Republic of Kazakhstan is an event that really should give new impetus to the whole country's development [3].

The beginning of 2016 year was marked by the implementation of the nation's draft "100 precise steps". 59 acts have entered into force that create fundamentally new legal environment for the development of the nation-state economy and society to turn into reality Kazakhstan's dreams about entering the thirty Nations-leaders of the 21st century.

Priorities areas of the judicial system's development, including civil procedural legislation, which should provide convenient and quick procedure of civil cases, were announced at the 6th Republic's Union of Judges under instructions of President. It is aimed at optimization of the judicial process; increase the use of information technology without compromising the quality of Justice. He also emphasized that the new Civil Procedure Code of the Republic of Kazakhstan to fundamentally improve the legal fold of the country. All modern legal basic institutions saved in the Civil Procedure Code of the Republic of Kazakhstan and also to made significant changes that should lead to the jurisprudence of the highest international standards. At the same time significant changes that should lead the jurisprudence to the highest international standards were amended in the Civil Procedure Code.

International non-governmental organizations also actively participated in the adoption of the Civil Procedure Code of the Republic of Kazakhstan. It was one of the most debated bills out fifty-nine which entered into force on January 1st, 2016. About two thousand proposals were studied during development, including proposals from individuals. Foreign experience of legal procedure has been carefully studied; progressive standards were adopted in the current Civil Procedural Law.

The adopted Civil Procedure Code of the Republic of Kazakhstan is a progressive document aimed to integrate citizens' legitimate rights and interests more fully; it made possible for justice to be more responsive, mobile.

The main innovation of the Civil Procedure Code of the Republic of Kazakhstan is the improvement of the preparation phase of the case for trial by expanding the range of issues resolved at this stage. In particular, the period of preparation phase of the case for trial has been increased. The judge's and other participants' actions are regulated more clearly in the proceedings after the adoption of the declaration by the Court. The Civil Procedure Code allows the use of conciliation procedures at all stages of the judicial process. The mandatory pre-trial settlement is introduced in certain categories of cases; therefore a number of laws have been modified. It allows the parties to resolve the dispute in the shortest possible time, with the least material and moral costs.

The great importance attached to the further development of the mediation institute in the new edition of the Civil Procedure Code of Republic of Kazakhstan. The Mediation with a

professional mediator and judge has been successfully applied in Kazakhstan in 2014. In total more than 9,000 mediations were carried out by them, which means that more than 18,000 citizens have reconciled. Therefore, the new Civil Procedure Code broadened the scope of conciliation measures and pre-trial settlement of disputes.

The Civil Procedure Code expands the application of information technology in the courts of the Republic of Kazakhstan. New technologies are being continuously introduced in the judicial process that simplifies and accelerates the process provide access to the justice, reduces paper procedure, minimizes non-procedural contacts.

Submission of applications and other documents, notice of participants in the process, judicial authorization, remote examination of evidence, familiarization parties with the case materials, fixing process, the expulsion of the judicial acts and the statement of executive documents will be carried out with the use of information technology. In addition, the new Civil Procedure Code of the Republic of Kazakhstan provides the introduction of audio and video recording of all the trials, indicating a qualitatively new level of transparency and accountability to society.

The possibility of appealing against court decisions was introduced and it is known as “concept of control, unity and law development”, which includes: the right to appeal, suggesting the possibility of reviewing the merits of the case by the Court of second instance and the right to verify the legality of the decision by the Audit Instance (cassation) Court.

Another fundamental innovation is the transition from a five-link to the three-link judicial system. The new three-link court system includes: the first instance - a district / city courts; the Court of Appeal - the regional courts; and the court of cassation - the Supreme Court of the Republic of Kazakhstan.

Also, participation of the Prosecutor in court on civil legal disputes is reduced. According to separate foreign experts, the participation of the Prosecutor in the process should be limited where necessary. The Prosecutor may apply to the Court on behalf of other persons, as well as to represent them in the process, only if this is justified by their particular interests or the actual situation. According to international practice, it will allow to increase the level of humanization of the judicial proceedings.

In view of the crisis, the economic component of the new code of civil procedure is not less interesting. So, the code introduces a new procedure for the consideration of investment disputes. Consideration of investment disputes by the Court of the city of Astana on the rules of the Court of first instance, investment disputes involving major investors-the specialized division of the Supreme Court of the Republic of Kazakhstan are provided in the implementation of the 23rd step of the Nation’s draft about formation of the separate judicial proceeding on investment disputes.

The adoption of the Civil Code Procedure of the Republic of Kazakhstan is a new level of effectiveness of the judicial protection of constitutional rights, freedoms and legitimate interests of all citizens and legal entities in Kazakhstan. In addition, it is an acceleration of the consideration and resolution of disputes, quality assurance of judicial acts.

This new level of legal protection will create favorable conditions for doing business, will have a positive impact on investor confidence to local justice and also, in the opinion of international experts, will increase the investment attractiveness of the country.

Literature

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