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On the possibility of using artificial intelligence technologies in resolving corporate disputes in the Republic of Kazakhstan

The article is devoted to the study of the possibilities of using artificial intelligence in resolving corporate disputes in the Republic of Kazakhstan. The authors analyze the current international acts and program documents regulating the use of artificial intelligence and its development. The study pays special attention to modern approaches to the introduction of digital technologies in judicial and arbitration processes, and also assesses the potential of artificial intelligence to improve the efficiency of courts in resolving corporate disputes. Special attention is paid to the legal and ethical aspects of the use of artificial intelligence and machine learning, including issues of personal data protection, ensuring the impartiality of the court, the rule of law and the trust of the participants in the process. Due to the challenges that have arisen in the implementation of electronic legal proceedings, the authors propose recommendations for adapting artificial intelligence tools to the specifics of the Kazakh legal system. The study examines the possibility of using artificial intelligence tools in resolving corporate disputes simultaneously with court records management and the possibility of predicting the outcome of a case based on decisions made in similar cases.

Keywords: corporate dispute, artificial intelligence, machine learning, confidentiality, contracts, contracts, court, justice, arbitration, corporate relations.

Introduction

Today, artificial intelligence is present in absolutely all spheres of life and science. Today we can confidently state this. Medicine, economics, agro-industry, mechanical engineering, logistics, and IT are only a small part of the areas where artificial intelligence (AI) is widely used. In comparison with other branches of science, appearance of AI in law was faster as it had been expected. There is an absolutely logical explanation for this phenomenon. Humans have taught AI to count, speak, draw, draw, predict, and identify, but AI has still not learned full-fledged critical thinking and data analysis. It is the critical thinking of a lawyer, judge, lawyer, investigator, prosecutor that distinguishes jurisprudence from other fields of activity.

The first international document that legally established the possibility of using artificial intelligence in law, including in justice, is the European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems and the Realities Surrounding Them [1], which was adopted at the 31st plenary session of the European Commission for the Efficiency of Justice in Strasbourg on December 3, 2018. This Charter is conventionally considered as a logical continuation of the European Convention on Human Rights [2] and the Convention for the Protection of Individuals with regard to Automated Processing of Personal Data [3].

In Kazakhstan, the phenomenon of AI itself, and especially AI in jurisprudence, is at an inchoate stage. At the moment of this study, we have identified a lack of definition of AI in Kazakhstan at the legislative level. Whereas in the Russian Federation, the concept of "artificial intelligence" was legally fixed in 2009 in GOST R 43.0.5-2009 [4].

Today, the possibility of using artificial intelligence tools in both the justice system and the field of lawmaking is widely discussed in legal circles. It is encouraging that the use of AI in law is becoming a trend phenomenon. It should be noted that this trend was set by the state through the adoption of the Concept of Legal Policy until 2030, the Concept of AI for the period up to 2029, the creation of the Artificial Intelli-

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gence Committee under the Ministry of Digital Development, Innovation and Aerospace Industry, the development of a draft Digital Code and related bills.

For the purpose of open discussion and making proposals, the Draft Digital Code of the Republic of Kazakhstan and the Dossier on its draft are publicly available. Only in 2023, by order of the Minister of Digital Development, Innovation and Aerospace Industry of the Republic of Kazakhstan, a working group was established to develop a draft Digital Code and related draft laws [5]. The draft of this document legislatively establishes the concept and definition of the term AI. Since this definition is still not legally fixed, the most appropriate way to call it would be “conditional”. Thus, AI will be understood as a hardware and software system capable of generating output data, including forecasts, recommendations, or other solutions, for a given set of human-defined goals. We do not exclude the fact that at the time of publication of this article, the Digital Code of the Republic of Kazakhstan will be adopted and the above definition may undergo certain adjustments.

As for corporate disputes, the legislative definition is fixed in the Civil Procedure Code of the Republic of Kazakhstan (hereinafter — CPC RK) [6]. This definition has been widely disclosed by the legislator. Thus, according to Article 27 of the CPC of the Republic of Kazakhstan, corporate disputes include disputes to which the parties are (Fig.):

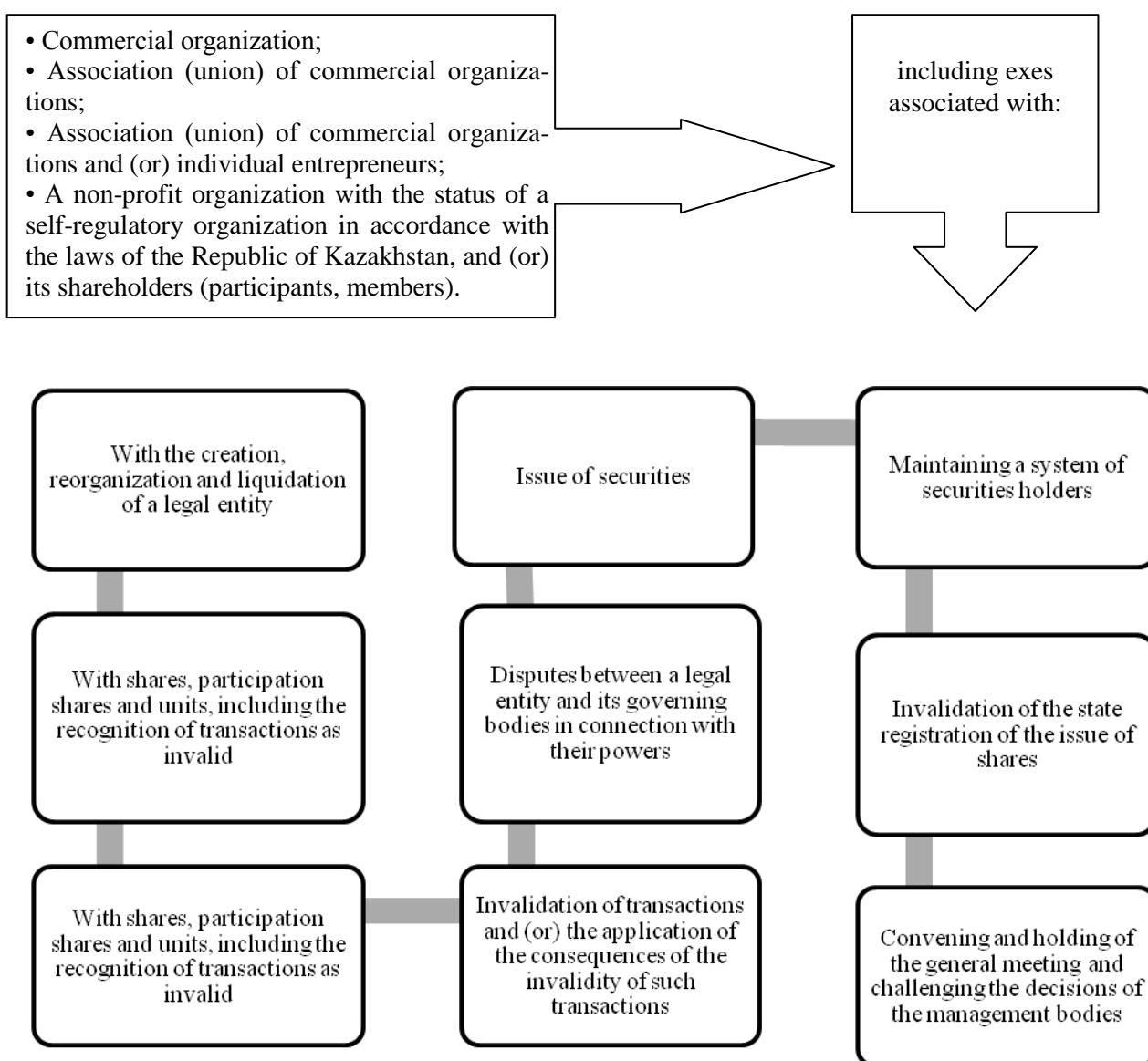


Figure. Parties to a corporate dispute.

Based on this definition, it can be concluded that the category of corporate disputes is quite complex, which requires both highly qualified judges and the competence of corporate lawyers and advocates. However,

er, we believe that the time has come to entrust certain aspects of corporate dispute resolution to artificial intelligence and machine learning tools. The legislative regulation of such relations, taking into account the study of international best practices, certainly serves as a priority driver for the use of AI tools.

Methods and materials

The empirical basis of this study is the analysis of existing electronic platforms such as eBay Resolution Center (annually resolves millions of disputes), SmartSettle (uses game theory to reach a compromise between the parties), DocuSign, Contract Express. The doctrinal basis of the research is the works of Jeremy Barnett, Philip Treleaven, B.Zh. Aitimov, G.A. Ilyassova, S.A. Amirtaev, Vladimir K. Andreev, Vasily A. Laptev, Sergey Yu. Chucha, Evan Belford. The European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems and the Realities Surrounding Them, the European Convention on Human Rights, the Convention for the Protection of Individuals with regard to Automated Processing of Personal Data, the Concept of Artificial Intelligence Development for 2024–2029 and the Civil Procedure Code of the Republic of Kazakhstan were used as a regulatory analysis. The study describes scientific methods within the framework of a project to ensure accessibility of justice to the population of the Republic of Kazakhstan, using artificial intelligence tools.

Results

In accordance with Part 1 of Article 27 of the CPC RK, corporate disputes are subject to the jurisdiction of specialized interdistrict economic courts. However, if an arbitration clause has been established between the parties to a corporate dispute, then such a dispute is subject to arbitration in accordance with the established clause. The exceptions are corporate disputes that have been declared by the parties or the arbitration court as non-arbitrable. After the COVID-19 pandemic, which quickly taught the Kazakh legal community to send lawsuits, reviews, and petitions online through the judicial office, specialized interdistrict economic courts are in no hurry to fully switch to offline trials. This phenomenon has certain advantages both for the parties to the corporate dispute and for the judicial apparatus. Online participation in court sessions and the possibility of remote document management using an electronic digital signature allows the parties to make optimal use of working hours, save paper resources and avoid the tense situation that may arise in the courtroom.

The subject matter of the corporate dispute is quite extensive. The parties to a corporate dispute can be both legal entities (joint stock company, limited liability company) and individuals (individual entrepreneurs, shareholders, participants, members of the Board of directors, including former ones). Almost any corporate dispute begins with a corporate conflict that has not been resolved at the negotiation stage. Before initiating a corporate dispute in court, the plaintiff typically outlines their claims in a pre-trial statement. It is not uncommon for disputes to be resolved by the parties at the stage of negotiations or pre-trial claims. However, dynamically developing economic relations in the context of globalization have increased the number of corporate disputes both from a transnational perspective and within each independent State. Kazakhstan is no exception to this logical legal phenomenon. In this regard, it is necessary to explore certain areas of analytical and organizational and procedural work of the court staff, in which the possibility of using AI tools can be considered. But before piloting and implementing such innovations, it is necessary to pay great attention to information security, personal data protection and mathematically correct machine learning of AI.

The use of AI in corporate dispute resolution can begin with two procedures simultaneously:

1. Judicial record-keeping on corporate disputes;
2. Establishment of legally significant circumstances in a corporate dispute with the possibility of predicting the outcome of the case based on decisions taken in similar cases.

J. Barnett and P. Treleaven (2017), when studying the use of AI and blockchain technologies, identified several key aspects that helped automate the dispute resolution process. Platforms that handle disputes thanks to AI were considered as examples. The authors noted such systems as eBay Resolution Center (annually resolves millions of disputes), SmartSettle (uses game theory to reach a compromise between the parties) [7; 399]. Another key driver of the use of AI in predicting the outcome of a corporate dispute, processing a large amount of legal information, as well as analyzing legally complex commercial contracts is the LawTech platform (<https://law-tech.co.in>). This platform has automated legal processes such as:

- Record keeping, document analysis, contract drafting (DocuSign, Contract Express);
- Online Dispute Resolution (ODR) — platforms for online mediation, arbitration or dispute resolution in digital format using AI;

- Blockchain and smart contracts;
- Customer interaction and documentation management (Clio, Practice Panther);
- Platforms that provide access to use cases and training materials (LagalZoom, Rocket Lawyer).

In addition to AI, blockchain technologies require legislative regulation in terms of personal data protection, and the adoption of national regulations is necessary at the national level [8; 128].

Discussion

In the process of researching the application and implementation of artificial intelligence in science, the research community has divided into two completely opposite positions. According to the old traditional scientific school, it will never replace natural intelligence, and even worse, it will slow down the progress and development of human capital and its research. However, there are also pragmatic opinions that promote the development of innovative tools, including AI. Of course, it is impossible to transfer justice entirely to artificial intelligence. But AI can become a reliable assistant not only for ordinary citizens who lack certain knowledge of law, but also for professionals in the person of judges, lawyers, and prosecutors. We believe that with proper machine learning and proper system administration, it is able to facilitate routine tasks for the public and for professional lawyers.

As part of the implementation of a scientific project on program-oriented financing entitled “Innovative approaches to ensuring accessibility of justice to the population of the Republic of Kazakhstan using artificial intelligence tools”, the research group of the Karaganda University named after Academician E.A. Buketov, together with a partner organization, began training an automated program to predict the initial result. This training program consists of several complex stages consisting of certain algorithms of actions. One of the most difficult and responsible stages is the tagging of judicial acts available in the database according to the specified parameters. Among the categories of judicial acts in civil cases, there are judicial acts of specialized interdistrict economic courts on corporate disputes. The main feature of corporate dispute decisions from other civil cases is the subject matter and the subject of the dispute. According to the results of tagging by the research group, it was revealed that the most common claims in corporate disputes are lawsuits:

- the compulsion to reregister a legal entity, the obligation to provide financial documents;
- recognizing the action of refusing to include issues in the agenda of the general meeting as illegal;
- the obligation to convene and hold a general meeting of the partnership's participants;
- about debt collection;
- on the recognition of the share purchase and sale agreement as invalid;
- on invalidation of the minutes of the decision of the General Meeting;
- on declaring illegal the decision of the General Meeting;
- about the cancellation of the state reregistration.

Based on the results of tagging judicial acts on corporate disputes, the research group came to the following conclusions. The outcome of court decisions on corporate disputes is consistent with the principles of uniform application of legislation. When making decisions on corporate disputes, the courts are guided by the legislation of the Republic of Kazakhstan in the field of corporate relations, ensuring the rule of law. However, for the full completion and launch of the software product, there are certain difficulties regarding access to existing databases of judicial acts. Government support is needed to build the software product, which will help the research group to constantly update and synchronize the database. Of course, we should not forget about the protection of personal data. The software product being developed meets the requirements of depersonalization of data, including information constituting commercial, official and other legally protected information. The main advantage of using AI tools in resolving corporate disputes is the ability to predict the initial outcome at the stage of filing a claim. Thus, the plaintiff or the defendant, describing the situation in the software product, may see their chances of winning similar decisions made earlier. If the chances of winning are low, a certain decision is made accordingly. For a potential plaintiff: do not file a claim due to low chances of winning; file a claim due to high chances of winning; suggest alternative dispute resolution methods to preserve business relations and confidentiality. For a potential defendant: admit the claim due to the low chances of winning; do not admit the claims in full due to the high chances of winning; partially admit the claims; propose alternative ways to resolve the dispute to preserve business relations and confidentiality. Consequently, the parties, having previously assessed their chances and procedural capabilities, will be able to make a well-considered decision that will help maintain business relations with counter-

parties, and in some cases, maintain business, since corporate disputes are usually commercial disputes that arise from entrepreneurial activities.

The use of AI tools in resolving corporate disputes can have a positive effect not only on the parties to the process, but also on the already overloaded judicial corps. The burden on judges is increasing every year. In turn, the high workload forces judge to make boilerplate decisions and not delve into the essence of the dispute. The personnel issue remains problematic. In the country, up to 13 % of judicial positions remain vacant every year. If we take into account other objective reasons for their absence, we discover that 15 % of judges do not administer justice under the existing workload [9].

The Russian Federation has already launched the “My Arbitrator” system (<https://my.arbitr.ru>), which is a data warehouse. Access to this system is provided not only to employees of the court staff, but also to the parties to the process in a particular case [10; 26]. The system has a database of arbitration decisions on specific corporate disputes. This platform is very convenient for potential participants in the judicial process, which can provide guidance on their position, arguments and other procedural actions.

Conclusion

A long period of consideration of a court case can lead to a feeling of injustice among the participants in the trial. William Gladstone’s quote “Justice Delayed is Justice Denied” [11], which he said in 1868, is more relevant than ever to this day. The main barrier to the introduction and application of artificial intelligence tools in justice, including as a pilot in the field of corporate dispute resolution, is limited access to databases, lack of full access to anonymized solutions and other relevant documents for the full training of machine learning algorithms, lack of assistance in testing the implementation of digital services in the practical activities of the court. The support of the state apparatus is of great importance for the joint development of innovative technologies in jurisprudence. Currently, machine learning algorithms for analyzing court documents are under development. However, it is not possible for the research group to fully update the court decisions due to their absence. In this regard, we believe that the state apparatus needs to promote research projects with priority areas. This will provide a great opportunity for the scientific community to implement their ideas and developments. The Concept of Artificial Intelligence Development for 2024–2029 [12] reflects the following gaps in legislation: the scope of artificial intelligence regulation is not defined, there is no regulation of the relationship between artificial intelligence entities, including the competencies of government agencies, as well as the rights, duties and responsibilities of subjects in the field of artificial intelligence; there are no technical regulations and national standards for artificial intelligence products and technologies. These barriers can be solved by joint efforts of the scientific community and the state. Thus, researchers will be able to contribute to the implementation of such strategic documents as the Concept of Digital Transformation, the development of Information and Communication Technologies and Cybersecurity for 2023–2029, the Concept of Legal Policy until 2030, and the Concept of AI for the period up to 2029.

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Қазақстан Республикасында корпоративтік дауларды шешу кезінде жасанды интеллект технологияларын пайдалану мүмкіндігі туралы

Мақала Қазақстан Республикасындағы корпоративтік дауларды шешу кезінде жасанды интеллектті пайдалану мүмкіндіктерін зерттеуге арналған. Авторлар жасанды интеллектті қолдануды және оның дамуын реттейтін қолданыстағы халықаралық актілер мен бағдарламалық құжаттарды талдайды. Зерттеу сот және төрелік процестерге цифрлық технологияларды енгізудің заманауи тәсілдеріне ерекше назар аударады, сондай-ақ корпоративтік дауларды шешу кезінде соттар қызметінің тиімділігін арттыру үшін жасанды интеллект әлеуетін бағалайды. Жасанды интеллект пен машиналық оқытуды қолданудың құқықтық және этикалық аспектілеріне, соның ішінде дербес деректерді қорғау, соттың бейтараптығын, заңның үстемдігін және процеске қатысушылардың сенімін қамтамасыз ету мәселелеріне ерекше назар аударылған. Электрондық сот ісін жүргізуді енгізу бойынша туындаған сын-кәтерлерге байланысты авторлар жасанды интеллект құралдарын қазақстандық құқықтық жүйенің ерекшеліктеріне бейімдеу бойынша ұсынымдар ұсынады. Зерттеу корпоративтік дауларды шешуде жасанды интеллект құралдарын сот ісін жүргізумен бір мезгілде пайдалану мүмкіндігін және осыған ұқсас істер бойынша қабылданған шешімдер негізінде істің нәтижесін болжау мүмкіндігін қарастырады.

Кілт сөздер: корпоративтік дау, жасанды интеллект, машиналық оқыту, құпиялылық, шарттар, келісімшарттар, сот, төрелік, сот төрелігі, корпоративтік қатынастар.

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О возможности использования технологий искусственного интеллекта при разрешении корпоративных споров в Республике Казахстан

Статья посвящена исследованию возможностей применения искусственного интеллекта при разрешении корпоративных споров в Республике Казахстан. Авторы анализируют действующие международные акты и программные документы, регламентирующие применение искусственного интеллекта, а также его развитие. В исследовании особое внимание уделено современным подходам внедрения цифровых технологий в судебные и арбитражные процессы, а также оценен потенциал искусственного интеллекта для повышения эффективности деятельности судов при разрешении корпоративных споров. Особое внимание уделено правовым и этическим аспектам применения искусственного интеллекта и машинного обучения, включая вопросы защиты персональных данных, обеспечения беспристрастности суда, верховенства закона и доверия участников процесса. В связи с возникшими вызовами по внедрению электронного судопроизводства, авторы предлагают рекомендации по адаптации инструментов искусственного интеллекта к особенностям правовой системы Казахстана. В исследовании рассматривается возможность использования инструментов искусственного интеллекта для разрешения корпоративных споров одновременно с судебным делопроизводством и возможностью прогнозирования исхода дела на основе принятых решений по аналогичным делам.

Ключевые слова: корпоративный спор, искусственный интеллект, машинное обучение, конфиденциальность, договоры, контракты, суд, правосудие, арбитраж, корпоративные отношения.

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