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The current state of legal regulation of artificial intelligence in the Republic of Kazakhstan

This study addresses the development of a cross-sectoral model for the legal regulation of artificial intelligence (AI) and highlights the transitional nature of the AI legal regime, situated between strategic innovation management and a fully developed system of legal accountability. The purpose of the study is to analyze the current state of AI regulation in the Republic of Kazakhstan, particularly in the context of civil liability for harm caused by AI systems. The methodological framework includes general and specialized scientific methods, such as analysis and synthesis, induction and deduction, as well as formal legal and comparative legal approaches. The paper provides a comprehensive analysis of current legislation in Kazakhstan related to AI regulation, identifies existing legal gaps, and proposes scientifically grounded measures to improve civil liability mechanisms in the context of AI technologies. It has been established that Kazakhstan has transitioned from software-oriented digitalization to the formation of a comprehensive legal regime for artificial intelligence. The findings indicate that Kazakhstan is transitioning from software-oriented digitalization toward the formation of a comprehensive legal regime for AI. The results substantiate the need to improve civil liability for harm caused by AI systems and support the introduction of an additional provision into the Civil Code of the Republic of Kazakhstan.

Keywords: artificial intelligence, concept, Digital Code, law, legal regulation, digital law, digital transformation, protection of human rights, Civil Code of the Republic of Kazakhstan, civil legal liability.

Introduction

The rapid development of AI technologies in recent years has become a key factor in the transformation of modern legal systems. Algorithmic solutions are increasingly being implemented in the economy, public administration, the judicial system, and private law, which objectively requires a rethinking of traditional legal concepts of responsibility, subjectivity, and the protection of human rights.

In his Address to the People of Kazakhstan, Head of State, K-Zh.K. Tokayev stated: “Kazakhstan is an integral part of the global community, a country located in the very center of the Eurasian continent. Despite global instability, we have taken a decisive step into the era of total digitalization and AI. We must modernize the economy through large-scale digitalization and the active implementation of AI technologies. As a first step, we must expedite the adoption of the Digital Code. This document should define key areas of digitalization, including artificial intelligence, platform economy, the use of big data and other aspects” [1]. At the same time, 2026 was declared the Year of Digitalization and Artificial Intelligence, making the development of algorithmic technologies a state priority [2].

Before the adoption of the Law of the Republic of Kazakhstan “On Artificial Intelligence”, scientists Sidorova N.V., Dulatbekov N.O., Kusainova L.K. formulated the following concept: “AI is a system that includes an information and communication infrastructure and a software complex, capable of simulating human cognitive functions for the rational solution of assigned tasks without a predetermined algorithm, as well as interpreting and analyzing a large array of data, using the collected information, self-learning and adapting as it develops, regardless of conditions” [3].

The Republic of Kazakhstan has developed a comprehensive legal framework in the field of AI in a relatively short period of time. The adoption of the Concept for the Development of AI for 2024–2029 [4], the special Law of the Republic of Kazakhstan “On Artificial Intelligence” [5], and the Digital Code of the Republic of Kazakhstan [6] demonstrates the transition from fragmented digitalization to a systemic codification of digital law.

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Article 4 of the Law of the Republic of Kazakhstan “On Artificial Intelligence” (the AI Law) determines that state regulation of public relations in the field of AI is based on the principles of: legality, justice and equality, responsibility and accountability, priority of human well-being, data protection and confidentiality, safety and security [5].

The AI Law [5] addresses a wide range of issues, including risk management, transparency and security, as well as the creation of a national platform and data libraries. Among its provisions, the most anticipated and legally significant are those relating to intellectual property, in particular copyright. For the first time, the state has explicitly defined its approach to works created with the participation of AI in a special legislative act. AI is not recognized as an author, and special criteria for the protection of such works have been introduced. Furthermore, special rules have been established governing the training of models on protected content [7; 2].

According to paragraph 1 of Article 23 of the AI Law [5]: “works created using AI systems are protected by copyright only if there is a creative human contribution to their creation”.

However, despite a multitude of new protections, which appear to be modelled on the provisions of the EU AI Law [8], Kazakhstan’s AI regulatory framework is considerably more general and less developed than the latter. As a result, many aspects of AI governance in Kazakhstan, including specific mechanisms for implementing and ensuring key AI safeguards, will be shaped through future regulations, which may reduce transparency and limit opportunities for broad public and civil society participation in the legislative process [9]

In civil law, the use of AI systems raises the issue of compensation for damages caused by algorithmic decisions. Relying on general civil law provisions without introducing specific provisions on algorithmic harm complicates proving causation and determining the culpable party, potentially reducing the level of protection for victims.

The political guidelines declared by the State Administration have found legislative continuation in the Concept for the Development of Artificial Intelligence for 2024–2029, which defines AI as a key factor in economic growth and the modernization of public administration. However, the Concept itself clearly points to significant legal gaps, including the absence of a unified conceptual framework, a regulatory framework for ethical principles, regulation of the legal status of AI subjects and mechanisms for distributing responsibility [4].

Thus, already at the level of strategic documents, the state recognizes the fragmentation of regulation and the need to move from programmatic guidelines to a comprehensive regulatory model.

The authors [3] note that the regulation of AI as an object of legal regulation at the international level also has a recommendatory and declarative nature.

An international legal review by the International Centre for Not-for-Profit Law (ICNL) confirms that the Kazakh model of AI regulation is one of the most structured in the Eurasian region, as it combines a risk-oriented classification of systems, administrative liability, protection of personal data and transparency requirements [9]. At the same time, analysts emphasize that issues of civil liability for algorithmic harm remain insufficiently regulated, since compensation for damages is attributed to the Civil Code, which does not contain specific provisions on AI.

The purpose of this study is to analyze the current state of legal regulation of AI in the Republic of Kazakhstan, in the context of the discussion of civil legal liability for harm caused by AI systems.

To achieve this goal, the following tasks have been set:

- analyze key provisions of the current legislation of the Republic of Kazakhstan in the area of AI regulation;
- identify existing gaps in legal regulation in the area of civil liability for harm caused by AI systems;
- develop a proposal (norm) to improve the Civil Code of the Republic of Kazakhstan, regulating liability for damage caused by autonomous digital systems.

Methods and materials

The methodological basis of the research is based on general scientific and specific scientific methods of cognition, including methods of analysis and synthesis, induction and deduction, as well as formal-legal and comparative-legal methods. Their comprehensive application allowed for a systematic analysis of theoretical developments in the field of legal regulation of AI, as well as the current legislation of the Republic of Kazakhstan in a comparative legal context.

The use of induction and deduction methods allowed us to identify the specific features of the functioning of AI systems as an object of legal regulation and to determine key issues of civil liability for harm caused by autonomous digital systems.

The application of the formal legal method allowed for the analysis of the provisions of the Law of the Republic of Kazakhstan “On Artificial Intelligence”, the Civil Code of the Republic of Kazakhstan and other regulatory legal acts governing the digital sphere, with the aim of identifying legal gaps and contradictions.

Comparative legal analysis tools allowed us to compare the national regulatory model with international approaches to civil legal liability for harm caused by AI systems, and to formulate proposals for improving the legislation of the Republic of Kazakhstan.

The legal basis for the study includes regulatory legal acts of the Republic of Kazakhstan in the field of digitalization and artificial intelligence. The theoretical basis of the study is formed on the basis of scientific works of domestic and foreign authors, including Sidorova N.V., Dulatbekov N.O., Kusainova L.K., Berekmoinov T., Turetsky N.N., Saktaganova I.S., Nurmukhambetova K.K. and Ismoilov Sh.A., as well as Michael Dugeri, Jean-Sébastien Borghetti, Cary Coglianese and Colton R. Crum.

In addition, the study utilized a legal modeling method, which allowed the development of a proposal to amend Article 917 of the Civil Code of the Republic of Kazakhstan in terms of establishing a special regime of civil legal liability for damage caused by AI systems.

Results

An analysis of scientific literature shows that the development of AI technologies significantly complicates the application of traditional civil legal liability mechanisms. In particular, the autonomous nature of the functioning of algorithmic systems makes it difficult to determine the subject that should bear responsibility for the harm caused.

Paragraph 1 of Article 24 of the Law of the Republic of Kazakhstan “On Artificial Intelligence” states: “Compensation for damage caused by AI systems shall be carried out in the manner determined by the Civil Code of the Republic of Kazakhstan”. However, current civil legislation does not contain any special rules governing compensation for damage caused by AI systems. In particular, Article 917 of the Civil Code of the Republic of Kazakhstan [10] establishes only general grounds for liability for causing harm.

In this regard, it is proposed to additionally include a new paragraph 4 of Article 917 of the Civil Code of the Republic of Kazakhstan the following provision: “Damage caused by the operation of AI systems shall be subject to compensation by the owner or operator of such a system, regardless of fault, unless it is proven that the damage arose as a result of force majeure or the intentional actions of the victim”.

Discussion

It is well known that Kazakhstan has adopted the Digital Code—a fundamental legal document establishing a unified and systematic approach to the development of digital technologies, the implementation of artificial intelligence, and the creation of a secure digital environment. The signing of the Code marks the country’s transition from digital solutions to a comprehensive digital transformation based on the principles of responsibility, security and protection of human rights [11].

“The predominant tort liability framework for AI-related claims in the EU, like Canada, is based on existing (“traditional”) laws on damages in contract and in tort under each Member State’s laws” [12].

This means that at present, liability for harm caused by AI systems is mainly based on traditional civil law rules governing contractual and non-contractual liability.

At the same time, M. Dugeri notes that such liability models are primarily based on the principle of fault. However, special legal regimes can also be applied that modify traditional proof requirements or establish liability independent of fault. In particular, Article [12] states: “In general, these liability frameworks are fault-based with a relatively broad scope of application, accompanied by several more specific rules which either modify the premises of fault-based liability ... or establish liability that is independent of fault (usually called strict liability or risk-based liability)”.

Thus, legal doctrine considers various models of civil legal liability for harm caused by artificial intelligence, including both fault-based liability and strict liability regimes.

Meanwhile, the specific functioning of autonomous algorithmic systems significantly complicates the establishment of a cause-and-effect relationship and the determination of the guilty party. In the context of complex AI architectures, harm can result from the interaction of software, training data, and the actions of multiple participants in the technology chain, including developers, owners, and users of the system.

In this regard, the application of the classical model of tort liability, based solely on establishing the guilt of a specific person, is not effective enough and does not provide an adequate level of protection for victims.

The AI Law [5] considers the AI system as an object of informatization, functioning on the basis of AI models. At the same time, the scientific doctrine is actively discussing the issue of the possibility of recognizing autonomous digital systems as a special category of legal objects with a specific legal regime. The lack of a clear definition of the legal status of such systems can create difficulties in determining who is responsible and allocating risks arising during their operation.

It should be noted that after the introduction of the AI Law [5], the Code of the Republic of Kazakhstan "On Administrative Offenses" [13] was supplemented by Article 641-1 of Chapter 31, which provides for liability for violation of legislation in the field of artificial intelligence.

The issue of civil legal liability for damage caused by AI systems deserves special attention. The AI Law provides that compensation for damages is carried out in accordance with the norms of civil legislation. However, the use of traditional civil legal liability institutions may prove insufficiently effective in the context of autonomous systems that make decisions based on machine learning algorithms.

Another important aspect is the regulation of highly autonomous AI systems. The AI Law provides for the classification of systems by risk level and degree of autonomy, which is in line with international approaches to regulating AI.

Jean-Sebastien Borghetti in his work [14] notes the need to search for alternative grounds for civil legal liability for harm caused by AI. According to the author, in some cases, a more effective solution may be the use of strict liability regimes or special industry-specific liability mechanisms that take into account the level of risk associated with the use of specific AI technologies.

Thus, the development of AI technologies requires the adaptation of traditional civil law institutions and the formation of new legal mechanisms that ensure effective compensation for harm caused by autonomous algorithmic systems.

The issue of transparency of algorithms and explainability of decisions made by AI systems requires separate analysis. The law enshrines the user's right to receive information about the automated data processing procedure and its consequences, which is an important guarantee for the protection of citizens' rights. However, in practice, the implementation of this principle may encounter difficulties associated with the commercial secrets of developers and the complexity of modern machine learning algorithms. In this regard, it seems appropriate to develop mechanisms for algorithmic audit and independent examination of AI systems.

N.N. Turetskiy notes [15] that the AI Law is not of a framework nature, but forms an independent regulatory architecture for a new area of regulation affecting the public sector, business and quasi-governmental structures.

Analyzing the content of the AI Law, we believe that it is primarily of a framework nature and is largely focused on establishing general principles and organizational foundations for state regulation. This approach is natural at the initial stage of developing legislation in the field of artificial intelligence, but in the future it requires development through the adoption of special regulations governing certain aspects of the use of AI systems.

An equally important aspect is the development of institutional infrastructure for regulating AI. The law provides for the creation of a national AI platform and grants the authorized body broad powers in the area of developing public policy and coordinating the activities of government agencies. However, the effective functioning of this system requires close interaction between the state, the scientific community, and the private sector, as well as the development of mechanisms for public oversight of the use of AI technologies.

In general, it can be noted that the legislation of the Republic of Kazakhstan in the field of AI is at the formation stage and requires further development. In the future, it is necessary to improve legal regulation taking into account international experience, including the provisions of the EU Law on Artificial Intelligence [8].

The position of the authors [16] regarding the declarative nature of the initial approaches remains relevant; in other words, the formal transition to normative regulation is not accompanied by adequate institutionalization of law enforcement mechanisms. This is manifested primarily in the absence of special civil legal structures, procedural guarantees and independent algorithmic control mechanisms that would ensure the actual application of the proclaimed principles.

This problem is particularly acute in the judicial sphere. I.S. Saktaganova et al. rightly note that the algorithmization of justice can undermine the principles of adversarial proceedings, transparency, and judicial independence if there are no mechanisms for explaining and verifying algorithmic conclusions [17]. Although national legislation enshrines the principle of human responsibility and the right to review automated decisions, the procedural regulation of these provisions remains insufficient. The procedure for accessing algorithmic models, standards for expert evaluation, and the limits of judicial review are not defined, which complicates the practical implementation of digital rights.

The risk-based regulatory model implemented in Kazakhstan largely replicates the European paradigm, which is based on classifying systems according to the level of potential harm. ICNL's international experience confirms the structural similarity of the national regime with EU approaches, including the prohibition of manipulative practices, transparency requirements, and administrative liability. However, accelerated regulatory consolidation without a long period of review of enforcement creates additional risks associated with uncertainty in the interpretation of regulations and the lack of established case law.

Foreign scientific literature also emphasizes that effective regulation of AI must combine flexibility and institutional control. Thus, C. Coglianese and C.R. Crum note that the optimal model for risk management in the field of AI involves flexible regulation, which, if necessary, can be strengthened by stricter requirements, while maintaining human oversight over the functioning of algorithmic systems [18].

The use of traditional liability mechanisms does not always effectively protect the rights of victims. One of the reasons is the difficulty of establishing a cause-and-effect relationship between the actions of a specific subject and the result of the functioning of an algorithmic system. In this regard, it is noted [12]: "Keeping in mind that risks cannot be eliminated in their entirety, liability rules are needed to ensure that individuals can obtain effective compensation in the event of damage caused by AI systems".

Consequently, the institution of civil legal liability is considered an important instrument for ensuring compensation for damage caused by the use of AI systems.

Conclusions

The study concludes that the Republic of Kazakhstan has developed a comprehensive regulatory framework for AI, including a special law "On Artificial Intelligence", the Digital Code, and a number of corresponding amendments to administrative legislation. The transition from software-based digitalization to the legal institutionalization of algorithmic technologies has been achieved.

The national model is built on a risk-oriented paradigm and an anthropocentric principle of responsibility, within which AI is viewed as an object of regulation, rather than as a subject of law. The consolidation of citizens' digital rights, including the right to review automated decisions, and the introduction of administrative sanctions for AI violations demonstrate national legislation's commitment to ensuring a balance between innovative development and the protection of human rights.

At the same time, fully realizing the potential of AI and advanced analytics technologies requires the consolidation of efforts by the state, private sector, and society aimed at creating a balanced model of legal regulation and stimulating innovative development.

This article analyzes the key provisions of the current legislation of the Republic of Kazakhstan regulating AI and identifies existing gaps in legal regulation in the area of civil legal liability for harm caused by AI systems.

The results of the study make it possible to supplement civil legislation with a special norm, regulating liability for harm caused by AI systems.

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Д.К. Рустембекова, Р.Б. Жағалов

Қазақстан Республикасындағы жасанды интеллектті құқықтық реттеудің қазіргі жағдайы

Зерттеудің өзектілігі жасанды интеллектті құқықтық реттеудің салааралық моделін негіздеу, сондай-ақ инновацияларды стратегиялық басқару мен толыққанды құқықтық есеп беру жүйесі арасындағы жасанды интеллект саласындағы қазақстандық режимінің өтпелі сипатын көрсету. Бұл зерттеудің мақсаты — жасанды интеллект жүйелерінен келтірілген зиян үшін азаматтық-құқықтық жауапкершілікті талқылау контексінде Қазақстан Республикасындағы жасанды интеллектті құқықтық реттеудің қазіргі жай-күйін талдау. Зерттеудің әдістемелік негізі танымның жалпы ғылыми және жеке ғылыми әдістеріне, соның ішінде талдау және синтез, индукция және дедукция әдістеріне, сондай-ақ формальды-құқықтық және салыстырмалы-құқықтық әдістерге негізделген. Жұмыста Қазақстан Республикасының жасанды интеллектті реттеу саласындағы қолданыстағы заңнамасына кешенді талдау, қолданыстағы құқықтық олқылықтарды анықтау, сондай-ақ жасанды интеллект технологияларын пайдалану жағдайында азаматтық-құқықтық жауапкершілік тетіктерін жетілдіру жөніндегі ғылыми негізделген ұсыныстар әзірлеу келтіріледі. Қазақстан бағдарламалық жасақтамаға бағытталған цифрландырудан жасанды интеллектке қатысты кешенді құқықтық режимді қалыптастыруға көшкені анықталды. Жүргізілген зерттеу нәтижелеріне сәйкес — жасанды интеллект жүйелерінен келтірілген зиян үшін азаматтық-құқықтық жауапкершілікті жетілдіру жөніндегі негіздеме және Қазақстан Республикасының Азаматтық кодексіне қосымша норма енгізу жөніндегі ұсыныс жасалған.

Кілт сөздер: жасанды интеллект, тұжырымдама, Цифрлық кодекс, заң, құқықтық реттеу, цифрлық құқық, цифрлық трансформация, адам құқықтарын қорғау, Қазақстан Республикасының Азаматтық кодексі, азаматтық-құқықтық жауапкершілік.

Д.К. Рустембекова, Р.Б. Жағалов

Современное состояние правового регулирования искусственного интеллекта в Республике Казахстан

Актуальность данного исследования заключается в обосновании межотраслевой модели правового регулирования искусственного интеллекта, а также в демонстрации переходного характера казахстанского режима в области искусственного интеллекта — между стратегическим управлением инновациями и полноценной правовой системой подотчетности. Целью данного исследования является анализ современного состояния правового регулирования искусственного интеллекта в Республике Казахстан в контексте обсуждения гражданско-правовой ответственности за вред, причиненный системами искусственного интеллекта. Методологическая основа исследования базируется на общенаучных и частно-научных методах познания, включая методы анализа и синтеза, индукции и дедукции, а также формально-юридический и сравнительно-правовой методы. В работе приводится комплексный анализ действующего законодательства Республики Казахстан в сфере регулирования искусственного интеллекта, выявляются существующие правовые пробелы, а также разрабатываются научно-обоснованные предложения по совершенствованию механизмов гражданско-правовой ответственности в условиях использования технологий искусственного интеллекта. Установлено, что Казахстан перешел от программно-ориентированной цифровизации к формированию всеобъемлющего правового режима в отношении искусственного интеллекта. Результатом проведенного исследования является обоснование путей совершенствования гражданско-правовой ответственности за вред, причиненный системами искусственного интеллекта, и предложение по введению дополнительной нормы в Гражданский кодекс Республики Казахстан.

Ключевые слова: искусственный интеллект, концепция, Цифровой кодекс, закон, правовое регулирование, цифровое право, цифровая трансформация, защита прав человека, Гражданский кодекс Республики Казахстан, гражданско-правовая ответственность.

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