ANNOTATION

of the dissertation by Damir Anatolyevich Digai entitled “Legal Regulation of Ensuring Access to Information (National Legislation and International Experience)” submitted for the degree of Doctor of Philosophy (PhD) within the educational program «8D04201 – Jurisprudence».

The purpose of the dissertation research is to analyze the legal regulation and practice of implementing the right of access to information in the Republic of Kazakhstan, to study international standards and foreign experience in this field, as well as to develop scientifically grounded proposals for improving legislation and law enforcement practice.

Research objectives:

- to examine the concept and essence of the right to receive information, as well as its significance for the formation of a rule-of-law state and a democratic society;
- to analyze the evolution of the legislation of the Republic of Kazakhstan regulating issues of access to information;
- to consider constitutional and legislative norms aimed at ensuring the implementation of citizens’ right of access to information;
- to identify key achievements and existing problems in the practical application of norms on access to information;
- to study the main international legal instruments regulating issues of information openness;
- to conduct a comparative analysis of legislation and practice of implementing the right to receive information in the Republic of Kazakhstan and foreign countries;
- to identify the main barriers faced by citizens and organizations when attempting to obtain access to information;
- to examine the role of digital technologies in ensuring transparency and accessibility of information;
- to develop recommendations for improving national legislation taking into account international standards and successful foreign experience.
- to identify obstacles arising in the exercise of citizens’ right of access to information.

The object of the research is social relations arising in the process of legal regulation and practical implementation of the right of access to information. These relations cover interactions between citizens, legal entities, state authorities, and international organizations, and are regulated by national and international legal acts aimed at ensuring transparency, accountability, and accessibility of information.

The subject of the research includes legal norms regulating issues of ensuring access to information, mechanisms for their implementation, as well as concepts, principles, and instruments provided for in the national legislation of the Republic of Kazakhstan and in international legal standards.

The research methods comprise a set of general scientific and special methods, the application of which ensures a comprehensive study of the object and subject of the

research and allows for the consistent achievement of the stated goals and objectives. The methodology is based on a combination of various approaches focused on a comprehensive analysis of the issues under consideration.

First of all, the study employs the formal-legal method, which involves the analysis of normative legal acts and legal institutions regulating the right of access to information. The application of this method is aimed at identifying gaps, conflicts, and internal inconsistencies in legislation, as well as formulating proposals for their elimination in order to enhance the effectiveness and coherence of legal regulation.

Alongside this, the comparative legal method is applied, making it possible to compare national approaches to ensuring access to information with foreign practices and international standards. The use of this method allows for the assessment of the applicability of certain foreign solutions in the context of Kazakhstan and the identification of directions for the possible reception of international experience.

The study also employs empirical methods, including the analysis of judicial practice, the examination of statistical data, and expert assessments, which made it possible to evaluate the practical implementation of norms on access to information and to identify problems faced by citizens, state authorities, and other participants in information-related legal relations.

In addition, sociological methods were applied, including questionnaires and interviews, aimed at studying the level of citizens' awareness of their rights in the field of access to information and their perception of the effectiveness of existing mechanisms for implementing this right.

A total of 49 experts participated in the expert survey. The selection criteria included at least 10 years of experience in the field of information security, which ensured the participation of respondents with extensive practical knowledge in this area.

The electronic letter contained the following questions allowing multiple-choice answers:

1. What components are included in the system for ensuring access to information?

2. What types of restricted-access information should be defined to ensure information security and protect public interests?

The expert survey was conducted via email. Each expert received a letter with a questionnaire and an invitation to participate. The survey was conducted over a period of 10 calendar days. Participants were informed about the objectives of the survey and notified that the results would be published without disclosing their personal data.**

In addition, a sociological survey involving 179 respondents (civil servants, students, researchers, NGO employees, entrepreneurs, media representatives, bloggers, and school students) was conducted to identify obstacles arising in the implementation of citizens' rights to access information.

Main Provisions Submitted for Defense:

1. The definition of "information" cannot be universal, since its content, properties, and legal regulation largely depend on the specific field in which it is applied. Scientific and legal literature contains numerous definitions of information reflecting its various aspects. However, the universality of such a definition is questioned when information is

considered within different branches of law. Therefore, a universal definition of information is impossible, as its properties, legal status, and significance vary depending on the context of application. This necessitates a sector-specific approach to the legal regulation of information, adapted to the characteristics of each field.

2. The need to recognize protected and commercially valuable information as an object of civil rights is determined by its economic value, participation in property turnover, and the necessity for effective legal protection. In the digital economy, information acquires the status of a strategic resource that may be subject to transactions, licensing, and other civil-law relations. Such types of information primarily include trade secrets, know-how, personal data, confidential business information, and other data possessing independent value for their holders and not intended for free dissemination. A common feature of such information is that its economic and legal significance is directly linked to restricted access and an established protection regime.

The recognition of information as an object of civil rights makes it possible to establish a clearer balance between freedom of information dissemination and the need for legal protection, which is especially relevant in the context of digitalization and the expansion of data circulation. Including protected and commercially valuable information in the system of civil law objects constitutes a necessary condition for the formation of a stable mechanism for its legal regulation and protection. This approach, on the one hand, helps eliminate existing gaps and uncertainties in legislation and, on the other hand, creates prerequisites for the development of information-related legal relations within civil circulation, including contractual and non-contractual forms of information use.

3. An analysis of the provisions of the Law of the Republic of Kazakhstan “On Access to Information” shows that the obligation to provide access to accurate and complete information is imposed on legal entities that are recipients of budgetary funds, but only in relation to their use. However, this approach does not fully correspond to the norms of the Budget Code of the Republic of Kazakhstan, which defines recipients of budgetary funds as both legal entities and individuals receiving financing through budget program administrators and using it within the framework of relevant activities. Therefore, the list of entities obliged to provide information should be expanded to include individuals receiving budgetary funding.

Secondly, all entities possessing information and receiving budgetary financing within the framework of the Law “On Access to Information” are obliged to disclose information on the targeted use of such funds. However, in practice, it is often observed that organizations winning tenders do not publish data on budget expenditures that are not subject to access restrictions. Moreover, a significant number of such organizations do not have official websites or social media pages where such information could be published.

4. Improving legal regulation of access to information requires a comprehensive approach to ensuring transparency in public expenditures. One of the key initiatives in this area should be the creation of a unified digital platform for public procurement and procurement in the quasi-public sector, as well as the automation of procurement processes using artificial intelligence. Currently, public procurement and procurement by quasi-public sector organizations in Kazakhstan are carried out through fragmented

information systems, which complicates monitoring, efficiency analysis, and public oversight. This leads to non-transparent use of budgetary funds, duplication of procurement, reduced efficiency, and creates favorable conditions for corruption schemes related to limited access to tender information. The absence of a unified database prevents systematic analysis of procurement procedures and early detection of violations.

The establishment of a unified digital platform for public and quasi-public procurement will eliminate these problems by ensuring full transparency of procurement procedures through the consolidation of data on tenders, winners, and contract values. This will minimize corruption risks, facilitate public oversight, and expand business participation in public procurement. In addition, a centralized procurement system will reduce state expenditures by unifying procedures, eliminating duplication, and optimizing the use of budgetary funds.

5. Based on the study of international experience and analysis of regulatory acts of the Republic of Kazakhstan, it has been established that the Law "On Access to Information" regulates social relations arising from the implementation of the constitutional right of everyone to freely receive and disseminate information by any means not prohibited by law. In particular, Article 6 of the Law defines categories of information that are not subject to access restrictions, including data on budget expenditures, use of state property, and environmental conditions. Therefore, the terms of production-sharing agreements concluded with foreign investors should be accessible to the public, as they affect national resources and state interests. Mandatory disclosure of information on agreements with foreign investors thus complies with the legislation of the Republic of Kazakhstan and serves public interests in ensuring transparency and accountability in the use of national resources. In this regard, Clause 9 of Article 6 of the Law "On Access to Information" should be amended and supplemented.

6. For the effective implementation of citizens' right to receive information, enhancement of transparency in the activities of state bodies, and elimination of gaps in law enforcement practice under the Law "On Access to Information," it is necessary to introduce the institution of an authorized official on access to information (Information Commissioner). This institution may be established as a unit within the Office of the Human Rights Commissioner of the Republic of Kazakhstan.

In practice, citizens and organizations face difficulties related to refusals to provide information, delays in responses, and insufficient transparency of state bodies. The absence of a single independent authority authorized to monitor compliance with legislation in this area limits the realization of the right of access to information.

7. Restricting access to communication networks and internet resources by law enforcement agencies without judicial oversight creates risks to state sovereignty, citizens' rights, and social stability. Such measures may lead to destabilization, restriction of the right to access information, economic losses, and reduced trust in public institutions.

To minimize the risks of abuse and ensure a balance between national security and constitutional rights, it is advisable to revise Article 41-1 of the Law "On Communications."

Description of the main research results. The dissertation manuscript was

discussed at a meeting of the Department of Legal Disciplines of I. Zhansugurov Zhetysu University.

The main theoretical conclusions and practical recommendations were tested and published in seven international and national scholarly journals:

1. Finding a balance between personal data protection and public safety in the age of

digitalization: International approaches and their adaptation, Journal of "Revista Relações Internacionais do Mundo Atual" (2025), Vol. 4, No. 50, e-7787, pp. 124–142, e-ISSN: 2316–2880, DOI: http://dx.doi.org/10.21902/Revrima.v4i50.7787;

2. Ensuring the Right of Access to Information Due to the Need to Increase the Level

of Information Security and Protect Public Interests, Journal of Lifestyle and SDGs Review, https://doi.org/10.47172/2965-730X.SDGsReview.v5.n02.pe04036;

3. Comparative analysis of international legal regulation and practice of foreign

countries in providing access to information: integration of regulatory and practical approaches, Bulletin of L.N. Gumilyov Eurasian National University, Law Series (2024), No. 1(146), pp. 223–232.

4. International experience and national peculiarities of protection of the right to

access to information: comparative legal analysis, Bulletin of L.N. Gumilyov Eurasian National University, Law Series (2024), No. 1(149), pp. 216–234.

5. Legal regulation of information on internet resources in the Republic of Kazakhstan,

Bulletin of Al-Farabi KazNU, Legal Series (2024), 111(3), pp. 24–32, DOI: https://doi.org/10.26577/JAPJ2024-111-i3-03;

6. Problems of compliance with constitutional guarantees of the right of access to

information on the Internet as a mechanism for the development of civil society, Proceedings of the Almaty Academy of the MIA of the Republic of Kazakhstan (2024), No. 2(79), pp. 183–190;

7. The legal framework for the advancement of civil society within Kazakhstan's

information environment, Zeszyty Naukowe Akademii Górnośląskiej (2024), ISSN 2956-6673, e-ISSN 2956-6681, No. 12/2024 (24), pp. 68–77, DOI: 10.53259/2024.12.06.

Justification of novelty and significance of the results obtained. The novelty and significance of the results obtained are substantiated by the development of new theoretical and practical approaches to understanding and improving the mechanisms of legal regulation of access to information. In particular, the dissertation proposes a comprehensive analysis of the current national legislation in the field of access to information, identifying both its strengths and existing problematic aspects. The analysis is aimed not only at identifying gaps and contradictions, but also at formulating specific recommendations for their elimination. In this regard, special attention is paid to recent changes in the regulatory framework and to assessing their actual impact on the practice of exercising citizens' right of access to information and their effectiveness.

The scientific novelty of the research is also manifested through a comparative-legal analysis of international experience in the legal regulation of access to information. This approach makes it possible to identify the most stable and effective models of

ensuring information openness and to determine the possibilities for their adaptation to national conditions.

In addition, the scientific novelty of the research is associated with the formulation of specific mechanisms for increasing the transparency and accountability of public authorities, as well as proposals for amendments and additions to the existing legislation on access to information. Taken together, this enables the dissertation research to be regarded as a contribution to the development of the theory and practice of legal regulation of access to information by proposing applied solutions to pressing problems in this area.

Description of the applicant's contribution to each publication. The applicant's contribution to each publication consists in the fact that each paper represents an independent and comprehensive study on a relevant topic. The applicant's articles provide extensive scholarly and practical recommendations aimed at improving the current legislation of the Republic of Kazakhstan, as well as recommendations on applying positive international experience relevant to the dissertation topic.

Structure and scope of the dissertation. The dissertation comprises 177 pages of typewritten text, is structured in accordance with the traditional format, and includes regulatory references, notations and abbreviations, tables and diagrams, illustrative materials, as well as an extensive list of regulatory and scholarly sources.