Abstract
Dissertation for the degree of Doctor of Philosophy (PhD)
in the specialty "6D030100 – Jurisprudence"
Muidenova Aliya Kalzhanovna
Topic: "Consideration of Civil Cases Involving Foreign Persons: Current Status and Prospects"

General characteristics of the work. The work examines the regulatory and legal framework and principles of legal proceedings in the consideration of civil cases complicated by a foreign element; the jurisdiction of the courts of the Republic of Kazakhstan in cases involving foreign persons; the state of legislation regulating the filing of claims, preparation for trial, and consideration of cases; the specifics of making decisions and their execution; issues of determining the civil procedural capacity of foreign citizens and stateless persons, as well as problems of establishing the legal capacity of foreign legal entities, international organizations, and foreign states; the specifics of the recognition and enforcement of decisions of foreign courts (foreign arbitration courts); as well as issues arising in the practice of verifying the authenticity of documents submitted by foreign organizations.

The relevance of this research topic is determined by the growth of property, family, trade, investment, and other contractual and business relations involving foreign nationals in the context of the integrated market economy of the Republic of Kazakhstan. This is due to the rapid development of international relations and high rates of socioeconomic activity in the country. The increasing number of foreign nationals and stateless persons arriving in Kazakhstan leads to an increase in property, family, and other contractual and business relations involving them. Most issues considered in civil proceedings involving foreign nationals, in addition to marital and family relations, are related to property claims and obligations arising from transport and logistics contracts.

The participation of foreign nationals in the international economic life of our country, migration processes, as well as in business, land, marital, and other relations with citizens of the Republic of Kazakhstan, means their interaction with the judicial system. Accordingly, when civil law (property and personal non-property) relations are complicated by foreign elements, the judicial proceedings are also complicated by various foreign elements.

The relevance of this topic is revealed in connection with the implementation of the following state programs adopted in our country. The "National Development Plan of the Republic of Kazakhstan until 2029," approved by Presidential Decree No. 611 of July 30, 2024, notes that the rule of law is a necessary foundation for the economic development and investment attractiveness of each country. The National Development Plan recognizes that over the past 10 years, a number of measures have been taken to increase the independence and systematize the openness of the courts. This plan envisages achieving a score of 0.60 on the World Justice Project Rule of Law Index by 2029 through strengthening the rule of law. This, in turn, is aimed at implementing the first priority of the "Ensuring the Rule of Law and Improving the Effectiveness of Public Administration" direction. This first priority involves

improving the quality of justice and continuing the reform of law enforcement agencies. The main goal of developing the judicial system is to reduce the time required for court proceedings. In this context, the reduction in the time required for civil cases involving foreign parties, as well as the recognition of foreign official and unofficial documents as evidence, is becoming increasingly important. This increases the importance of expedited consideration of civil cases, including those involving foreigners, while simultaneously reinforcing the need to ensure the fairness of decisions. As a result of these reforms, public trust in the judicial system is expected to increase to 58% by 2029.

Special rules for hearing cases involving foreign nationals are provided in Chapter 57 of the Civil Procedure Code of the Republic of Kazakhstan. Unless otherwise provided by an international treaty ratified by Kazakhstan, according to paragraph 2 of Article 472 of the Civil Procedure Code of the Republic of Kazakhstan, foreign nationals enjoy procedural rights equal to those of citizens and legal entities of the Republic of Kazakhstan and fulfill procedural obligations equally. However, in practice, this provision is not always fully implemented due to the need to perform certain procedural and other actions.

Violation or non-compliance with relevant procedural rules during the hearing of civil cases in the court of first instance involving foreign nationals, as well as failure to perform necessary procedural actions, often leads to the annulment of rendered decisions. Therefore, it is relevant to conduct a study on the theoretical and legal foundations of the participation of foreign nationals in civil proceedings, as well as the specifics of conducting civil cases involving them. The results of such a study, in turn, will contribute to improving the quality of civil proceedings.

Level of research on the topic. Civil proceedings involving foreign parties remained relevant both before Kazakhstan's independence and after the collapse of Soviet power and the independence of the former Soviet Union. Specific issues of civil proceedings involving foreign parties have become the subject of research in the fields of civil procedural law and civil law. Domestic and foreign scholars have addressed both general and specific issues of civil proceedings involving foreign parties. Recently, the work of Russian legal scholar M.K. Suleimenov, who studies issues of judicial immunity of foreign states in civil proceedings involving foreign parties, is noteworthy. In his research, M.K. Suleimenov examines the fundamentals of judicial immunity of foreign states, analyzing the grounds for its limitations and waivers from a theoretical perspective. He also identifies several types of judicial immunity of foreign states. However, it cannot be claimed that the works of this legal scholar fully cover the topic of our study, as he analyzed only one aspect of civil proceedings involving foreign parties. Based on the above, it can be argued that domestic civil procedural law has yet to conduct a comprehensive analysis of the key issues surrounding the participation of foreign parties in civil proceedings. Given the country's dynamic economic development, the level of research on this topic remains low. Therefore, the consideration of cases involving foreign parties requires more in-depth and detailed research.

The object of the dissertation research is civil procedural relations arising during the consideration of civil cases involving foreign persons.

The subject of this dissertation is the rules governing the consideration of civil cases involving foreign persons in accordance with the procedural legislation of the Republic of Kazakhstan, the judicial practice of its application, and the scientific and theoretical considerations that have developed to date on the topic of research.

Purpose and Objectives of the Dissertation. The purpose of the study is to study the theoretical and practical experience of judicial consideration of civil cases involving foreign persons, identify and analyze practical problems and, consequently, provide specific practical recommendations aimed at improving procedural legislation.

To achieve this goal, the dissertation sets the following objectives:

- to examine the regulatory and legal framework for the consideration of civil cases complicated by a foreign element;
- to determine the principles of civil proceedings involving foreign persons;
- to analyze the jurisdiction of the courts of the Republic of Kazakhstan in cases involving foreign persons;
- to study the procedural features of filing claims in cases involving foreign persons;
- to identify the features of preparation for trial in cases in which foreign persons are parties;
- to analyze the consideration of civil cases involving foreign persons;
- to explore practical issues of rendering decisions in civil cases involving foreign nationals and their enforcement.

Methodological basis of the dissertation research. General scientific methods of analysis and synthesis were used to examine the conformity of current legislative regulation and judicial practice in civil cases involving foreign nationals. Statistical methods, as a specific scientific method, were widely used to characterize the entry of foreign nationals into the country, their involvement in marital and family relationships, as well as the investment climate and judicial practice. When studying foreign experience in civil proceedings involving foreign nationals, private law methods were predominantly employed, namely, comparative legal and formal legal methods. Comparative legal methods were used in the study of civil proceedings with a foreign element, including the participation of foreign states in civil proceedings. In particular, when studying the involvement of foreign states in civil proceedings, the analysis of foreign experience was conducted using the comparative legal method.

Regulatory Framework for the Dissertation. The dissertation's regulatory framework is based on conventions ratified by our country, international treaties, bilateral agreements between the Republic of Kazakhstan and other states on legal assistance, the Constitution of the Republic of Kazakhstan dated August 30, 1995 (as amended as of January 1, 2023), the Civil Procedure Code of the Republic of Kazakhstan (as amended as of January 16, 2026), as well as laws and other legal acts regulating relations related to the subject of the study. A comparative legal analysis was conducted of legal assistance treaties concluded with the United States, European countries (Great Britain, Germany, France, Austria, Bulgaria, etc.), Turkey, Brazil, Japan, China, and other states, as well as the civil procedure codes of Russia, Azerbaijan, Armenia, and the Central Asian republics.

The scientific novelty of this dissertation lies in the fact that for the first time, a comprehensive study of the current state of civil cases involving foreign parties has been conducted at the dissertation level. The scientific novelty of the research is determined by the provisions submitted by the applicant for defense.

Key results and conclusions presented for defense:

1. In order to clarify procedural provisions in civil proceedings involving foreign parties, we propose adopting a regulatory resolution of the Supreme Court of the Republic of Kazakhstan "On the Application of Legislation in the Consideration and Resolution of Civil Cases Involving Foreign Parties."

2. Civil proceedings involving foreign parties are part of an international process that considers and resolves civil cases based on the norms of Kazakhstani and international law, employing general and specific principles. As a result of the research, specific principles for the consideration and resolution of civil cases involving foreign parties were revised and developed. These principles include: the principle of consistency of procedural actions; the principle of legalization of foreign parties; the principle of legalization of foreign evidence; the principle of legalization of powers of attorney drawn up abroad; the principle of legalization of judicial agreements drawn up abroad; the principle of legalization of procedural actions performed abroad; and the principle of legalization of decisions of foreign courts.

3. The author proposes a classification of foreign parties participating in civil proceedings. According to it, foreign parties are divided into: a) individuals – foreign citizens, stateless persons, and refugees; b) foreign organizations – foreign legal entities and organizations that do not require legal entity formation; c) foreign states and international organizations.

4. In order to unify the Kazakh and Russian versions of the current legislation, as well as to fully define the composition of subjects participating in the case, it is proposed to change the title of Chapter 5 of the Civil Procedure Code of the Republic of Kazakhstan in the Kazakh version to “Persons participating in the case”.

5.In order to determine the status of the category of refugees when considering civil cases complicated by a foreign element, it is proposed to amend paragraph 1 of Article 473 of the Civil Procedure Code of the Republic of Kazakhstan as follows: “The civil procedural legal capacity of foreigners, stateless persons and refugees is determined by their personal law”. In addition, it is proposed to supplement this article with paragraph 4-1 as follows: 4-1. The personal law of a refugee is the law of the state of his place of residence, and in the absence thereof – the law of the state in which he applies for asylum.

6. As an equal participant in civil legal relations, the state, including foreign states, must have a clearly defined procedural status as a party to the case in the event of a civil dispute. Based on the results of theoretical research, along with absolute and functional immunity, the characteristics of limited judicial immunity were identified and substantiated. The study formulated the proposition that, in accordance with the Civil Procedure Code of the Republic of Kazakhstan, foreign states have limited judicial immunity. In order to more precisely define the limited immunity of foreign states, it is proposed to adopt a law on jurisdictional immunity of a foreign state in the Republic of Kazakhstan.

7. The evaluation and recognition of foreign written evidence is an important element of proof. Not only acts and documents, but also business and personal letters, are recognized as written evidence. In civil proceedings involving foreigners, it is necessary to establish a general procedure for the legalization of unofficial documents (business and personal letters). In this regard, we believe it is necessary to supplement Article 100 of the Civil Procedure Code of the Republic of Kazakhstan with paragraph 7, which should stipulate that a document obtained in a foreign state is recognized as written evidence in court if its authenticity is not disputed and it is legalized in accordance with the established procedure.

Proposed version of the addition to Article 100 of the Civil Procedure Code of the Republic of Kazakhstan:

Article 100. Written Evidence

7. In cases stipulated by international treaties of the Republic of Kazakhstan, official and unofficial documents drawn up in a foreign state, after certification by apostille, are recognized as written evidence in court. 8. The consideration and resolution of civil cases involving foreign parties presupposes the importance of the process of recognizing decisions rendered by foreign courts. In this regard, the content of this process was examined, and specific conclusions were formulated. A provision was formulated stating that recognition of a foreign court's decision entails an assessment of the decision's certainty, relevance, validity, and sufficiency, as well as the establishment of its legal force based on the principle of legalization.

Theoretical and Practical Significance of the Dissertation Research. The theoretical significance of the research is demonstrated by the fact that the results obtained fully cover problematic issues related to the specifics of foreign participation in civil proceedings. Furthermore, the conclusions and proposals presented in this dissertation contribute to the further advancement of civil judicial practice involving foreign parties. The dissertation materials can be used in the preparation of teaching materials for the courses "Civil Procedural Law" and "Private International Law."

Criticality of the Dissertation Research Results. The dissertation was completed and discussed at the Department of Legal Disciplines of I. Zhansugurov Zhetysu University. The main results and scientific recommendations of the dissertation research are reflected in eight scientific articles in scientific journals. Of these, four articles were published in scientific journals submitted by the authorized body, one article in journals included in the Scopus database, and 3 articles in the proceedings of scientific and practical conferences and other publications.

The structure and scope of this dissertation allowed us to explore the purpose and objectives, as well as the theoretical and practical aspects of the study. The work consists of an introduction, three sections containing the main content, a conclusion, a bibliography, and appendices.