Foreign Persons in Kazakhstan's Civil Proceedings and the Sustainability of the Civil Justice System

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Abstract

International organisations and cross-border mobility are driving up civil conflicts involving foreigners in Kazakhstan, challenging the capacity, inclusiveness, and predictability of national civil justice. This article analyses the legal status and procedural rights of foreign citizens and stateless persons in civil actions under Kazakhstani law in the context of sustainable legal growth. The study uses a dialectical approach and normative and comparative legal analysis of the Civil Procedure Code, private international law rules, and relevant international instruments governing court access, judgement recognition and enforcement, and legal assistance. Persistent shortcomings in institutional resilience include fragmented jurisdictional regulations, inconsistent service standards abroad, language and cost constraints, and inadequate digital accessibility for cross-border litigants. Addressing these issues through improved connectivity, recognition procedures, translation and fee-waiver safeguards, e-justice tools, and treaty alignment would improve fairness, efficiency, and non-discrimination. Strengthening foreign people' procedural status can boost societal trust, investment climate, and the rule of law while complying with international responsibilities. A more resilient and sustainable civil justice system in Kazakhstan can be achieved by embedding principles of accessibility, transparency, equality before the law, and effective remedy into proceedings involving foreign persons. The article proposes incremental legislative and institutional reforms that are timely and necessary.

Keywords: Civil Procedure, Civil Procedural Law, Judicial Defence of Foreign Persons, Powers of Foreigners, Sustainable Legal Development.

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Introduction

Civil law disputes with the presence of a so-called "foreign entity" have long ceased to be a rarity in almost any country in the world. However, this issue is currently receiving particular attention in the Central Asian region. The countries of the Central Asian region, considering their geographical location and tendency to develop in the economic, political dimension, constitute one of the most important geopolitical centres, with the Republic of Kazakhstan (RK) leading the way (Bharti, 2022). This pace of international relations has led to the active development of legal relations involving foreign persons, and directly to their judicial defence, as well as to the need for effective settlement of legal disputes under international law (Tsurkan-Saifulina et al., 2019; Zhanibekov et al., 2024).

The RK, as a country interested in the active development of foreign economic relations and actively demonstrating this on the world market, pursues the goal of creating a justice system with the highest degree of protection not only for its citizens, but also for foreign persons. The principal issues that are acute today in the legal dimension are the legal status of foreigners and their powers in the judicial process, the principles of justice in civil proceedings involving foreigners, and the improvement of the procedure of consideration of civil cases with the introduction of an effective mechanism for protecting the rights and interests of citizens of other countries.

This issue is not new in the legal science of the RK, although recently it has become particularly relevant. From a sustainability perspective, formal national treatment must be matched by functional equality – removal of de facto barriers that disproportionately burden foreigners (information asymmetries, translation, distant participation). A series of both national and foreign researchers have been engaged in the research of this subject, including Lisitsa and Moroz (2019), and Smashnikova (2018). A massive part of their research lies in the sphere of legal status and powers of foreign citizens residing in the territory of the RK. Sabitova (2016) focused on the aspect that foreign citizens in the RK enjoy the principle of national treatment, i.e., they enjoy the same rights and freedoms, as well as have identical obligations as citizens of the Republic itself, and therefore, in case of legal disputes, like all other participants of civil turnover, they are obliged to obey the applicable laws, including those that determine the civil procedural aspects.

Shchukin (2018) analysed a series of international regulations, including the Hague Convention on Civil and Commercial Cases, the Minsk Convention on Legal Assistance and Legal Relations in Civil Matters,

reducing to the need to follow the principle of equality of all before the law and the court. Talzhanov (2014) made a special contribution to the study of the problems of representation of foreigners in civil proceedings, investigating in detail the issue of jurisdiction, as well as the problems of representation of foreigners directly in civil proceedings. Talzhanov also favours the idea of national treatment, which is in force in the national legislation of the Republic, based on the Constitution of the RK (1995) and other regulations. Furthermore, it is Talzhanov who raises the issue of proper execution of documents in Kazakh courts, which often become the reason for the closure of proceedings and proper notification of the parties to a civil case in other countries, emphasising that the Kazakh court should actively establish relationships with courts in other countries on this issue.

In terms of the study of the issue of jurisdiction of courts in international civil law, it is worth mentioning the studies of Roper (2019) and Lavinbuk (2005). Their research is based on the principle of universal jurisdiction, which allows a state to exercise jurisdiction over cases with which the state has no connection, territorial, national, or otherwise, departing from the standard three-tier system of jurisdiction. Muidenova and Issayeva (2019), comparing legal proceedings in Kazakhstan with other Commonwealth of Independent States (CIS) countries, focused on the fact that in Kazakhstan such cases are considered by economic courts, while in a series of CIS countries (Belarus, Kyrgyzstan) – by arbitration courts.

The purpose of this study is to investigate the specific features of civil proceedings involving foreign persons under the current legislation of the RK, directly analysing the legal status of foreign persons, their procedural powers, and the jurisdiction of the courts, alongside a comparative analysis with selected European jurisdictions. In addition, the study situates these issues within the framework of sustainable legal development, understood as fair, efficient, and non-discriminatory access to justice consistent with SDG 16 (Peace, Justice and Strong Institutions), and evaluates how existing norms and institutional practices affect the institutional sustainability of the civil justice system. Furthermore, the study aims to identify current legislative and procedural problems and to outline evidence-based avenues for their resolution, with a view to enhancing accessibility, transparency, predictability, and resilience in civil proceedings involving foreign persons.

Materials and Methods

The study employed the following general and special methods and techniques of scientific cognition: the dialectical method, the method of

synthesis and analysis, and comparative legal method. This study provided a detailed investigation and analysis of civil proceedings involving foreign persons, as well as their legal status and powers. The basis of the methodological research was the dialectical method, which was used to analyse the principles of justice implementation in civil cases involving foreign persons, focusing on their essence and features. This method is particularly useful in studying fundamental concepts such as national treatment and most-favoured-nation treatment, which underpin the legal status of foreign nationals. In practice, the dialectical method facilitated a comparative approach, allowing for the examination of the evolution of these principles within the context of civil proceedings. It involved contrasting different legal interpretations, tracing historical developments in their application, and synthesizing varying positions from both national and international legal frameworks. Furthermore, the specific features of the court proceedings themselves, namely the process of proper preparation of procedural documents, the process of court notices, the verification of procedural standing, and other aspects were examined.

The analysis prioritized a comparative approach, focusing on the examination of national and international legal frameworks to understand the legal status and procedural rights of foreign persons in civil proceedings. Additionally, historical and practical aspects were emphasized to trace the evolution of key principles, such as national treatment and most-favoured-nation treatment, and their application in practice. The method of synthesis and analysis were frequently used, which allowed analysing the legal status of foreign citizens both in general and directly in the context of their powers in legal proceedings. In addition, to investigate in detail the international treaties and bilateral treaties regulating the relations in the issue of consideration of civil cases in the presence of a foreign element. Considering the legal status of foreign persons, the study investigated its difference from the legal status directly in the context of the right to judicial defence in civil disputes. The formal legal method helped to study such categories as the right to defend one's interests in court, the competence of the courts, as well as the structure of jurisdiction and the structure of the principles of justice.

Using the comparative legal method, a comparativist analysis of national legislation and the legislation of individual countries (China, Great Britain) was performed, and the shortcomings and advantages of national legislation in this area were analysed. The study of the legislative experience of other countries helped to formulate a proposal to improve the existing laws regulating the legal status of foreign persons and the consideration of civil cases involving them. Based on this, and utilizing predictive legal modelling, a series of potential changes were proposed to address gaps in the legislative

framework. This modelling approach involved simulating different legal scenarios to identify the most effective measures for improving the handling of cases involving foreign persons and enhancing procedural efficiency in practice.

The selection of specific European and CIS jurisdictions for comparison was guided by a combination of factors. These included the presence of similar legal systems, particularly in terms of civil procedure and the treatment of foreign persons, as well as contrasting models that highlight different approaches to judicial protection and procedural rights. Additionally, economic ties with Kazakhstan played a crucial role, as these jurisdictions represent key partners in international trade and legal cooperation, providing a relevant context for understanding the practical implications of civil proceedings involving foreign persons in Kazakhstan.

The study is a perspective of development and reform of the existing Civil Procedural Code of the RK (2015) as well as laws regulating the legal status of foreigners and their powers directly in the field of civil proceedings. The materials that were used in this study formed the theoretical basis and included works of national, post-Soviet, and foreign scientists and practitioners, as well as the legal framework of the RK. The study examined the Civil Procedural Code of the RK (2015), the Law of Georgia No. 2045-II "On the Legal Status of Aliens and Stateless Persons" (2014), as well as a series of international conventions ratified by the RK – Hague Convention on Civil Procedure (1954), Minsk Convention on Legal Assistance in Civil, Family and Criminal Matters (1993). In addition, the relevance of the study, the problematic, purpose, and objectives of the study were formed and highlighted, and the methods that contributed to the findings were explored.

Results

The emergence of legal relations with the participation of foreign persons is inevitable, considering the trend of growth of international cooperation in the RK, which, in turn, necessitates the sustainable development of civil justice – its resilience, predictability, and non-discriminatory accessibility for cross-border litigants (SDG 16). Accordingly, this refers to unambiguous contact of foreign persons with the judicial system of Kazakhstan, including civil proceedings. For many years, any dispute, the subject of which is a foreign person is defined as a special category of civil cases, which have their specific features of consideration (Khamzina et al., 2020). The first and main factor of distinction is the legal status and procedural position of a foreign person, which is generally regulated by the norms of national legislation, as

well as limited within the international legal treaties. The International Covenant on Civil and Political Rights (1966) and the Hague Convention on Civil Procedure (1954) are among such treaties governing the legal position of foreigners and also enshrining their right of access to the judicial system, according to the latter of which it follows that "in civil and commercial matters, nationals of each of the Contracting States shall enjoy in all other Contracting States free legal aid as their own nationals of the latter States under the laws of the State where free legal aid is required".

Furthermore, the right to defence and access to the judicial system is also set out in the Minsk Convention on Legal Assistance in Civil, Family and Criminal Matters (1993), which provides that citizens of each Contracting Party, as well as other persons residing on its territory, are entitled to freely and without hindrance to apply to the courts, prosecutor's offices, internal affairs bodies and other institutions of the other Contracting Parties whose competence includes civil, family, and criminal matters (institutions of justice), may appear before them, file petitions, commence suits, and carry out other procedural actions under the same conditions as nationals of the Contracting Party concerned.

However, the primary document regulating the legal status of foreign citizens is the Constitution of the RK (1995) and the Law of the RK No. 2337 "On the Legal Status of Foreigners" (1995). Thus, this regulation governs a series of issues related to the entry and stay of foreigners in the RK, education, and medical care, payment of taxes and family legal relations, as well as the issue of protection of foreigners and their access to the judicial system. According to Article 18 of the Law of the RK No. 2337 "On the Legal Status of Foreigners" (1995), foreign nationals in the RK are entitled to have their interests protected in court and also in other state bodies whose competence includes the protection of property and personal non-property rights. Therewith, the list of procedural rights of foreigners is equal to citizens of the Republic, without restrictions. Another regulation that covers the issue of procedural powers of foreign citizens is the Civil Procedural Code of the RK (2015), which states in Item 2 of Article 413 that foreign citizens, as well as stateless persons and international organisations for the protection of their rights, freedoms, and interests, enjoy procedural rights and perform procedural duties on an equal basis with citizens of the RK. It is this rule that is key to the representation of foreign persons in court proceedings. Notably, such a formulation is basic for almost all countries of the post-Soviet space. For instance, the Law of Georgia No. 2045-II "On the Legal Status of Aliens and Stateless Persons" (2014), which governs the issue of protection of foreign citizens, almost identically establishes the equality of procedural rights of foreigners with Georgian citizens for the protection of

their personal non-property or property rights. Legal Status of Foreign Nationals in the Kyrgyz Republic (2011) has an analogous wording. The conducted analysis suggests that the legislation of Kazakhstan, as well as other post-Soviet republics, follows the principle of "national treatment" in the issue of the legal status of foreign citizens.

The issue of principles of justice in proceedings involving foreign persons is one of the key points in the procedural law of any state, as well as in the science of the present time. It is the analysis of the principles of dispute resolution and the implementation of justice that determine the nature of the courts' activity in this area, which, according to generally accepted norms, is usually identified as international civil procedure. The principles of international civil procedure are nothing but fundamental ideas that govern the transnational civil legal relations that have arisen, and their aim is the fair resolution of civil cases (Rexhepi and Murtezaj, 2024).

Protection of the rights of foreign persons, as well as access to the judicial system and its effective functioning, are the key to building quality international relations, integration of Kazakhstan's economy into the world economy, and, consequently, development of business activities and international investments within the country. The level of development and functioning of the judicial system in the RK directly affects the processes of strengthening political and economic relations in the international arena (Akimbekova et al., 2021; Apakhayev et al., 2017). That is why the issue of the legal status, as well as the consideration of civil cases, the principle of justice plays such a vital role in the system of national legislation.

As mentioned above, in the RK, as well as in many other post-Soviet republics, the principle of national treatment in civil proceedings prevails, the essence of which is that all foreign citizens, as well as stateless persons, are equal to Kazakh citizens in terms of their rights and obligations. It is meant to equate such categories as procedural legal competence and legal capacity of foreign individuals and legal entities. However, despite this scientific formulation, the Civil Procedural Code of the RK (2015) clearly indicates the need to distinguish between the terms "legal capacity" and "subjective right" to understand the differences between objective reality and general legal possibility. This refers to Article 473 of the Civil Procedural Code of the RK, which states that the civil procedural capacity of stateless persons and foreigners is determined by their personal law, and if they have more than one nationality, their personal law is the law of the country with which they are most closely associated. However, Article 472 also indicates the right of foreigners to exercise procedural rights and perform procedural obligations on an equal footing with individuals and legal entities of the RK. Furthermore, the Kazakh legislator introduced a provision in the Civil

Procedural Code of the RK that "... a person of a foreign state recognised as procedurally incapable based on personal law may be procedurally capable in the territory of the RK if, according to the national legislation in force, they have legal capacity". The existence of this Article suggests a real guarantee of access of foreign persons to judicial protection of their rights in the RK. As for the procedural capacity of a foreign and international organisation, it is also determined according to the law of the foreign state under which it is established. The legal capacity of an international organisation is established based on an international treaty. However, in practice, it is quite common to encounter problems with verification of legal capacity of foreign legal entities. The point is that when verifying the competence of the governing body of the respective legal entity to issue a power of attorney on behalf of the legal entity, the courts often do not pay due attention to the fact of the competence of the person who was issued the power of attorney to perform such actions. That is, the court scrutinises the competence of the person in whose name the power of attorney is issued but misses the point whether the power of attorney is properly issued and whether the person who issued it has the right to perform such actions (Talzhanov, 2014). A solution could be the adoption of a resolution of generalised judicial practice of the Supreme Court of Kazakhstan, which would regulate this issue. Such uniform guidance would enhance institutional sustainability by reducing adjudicative uncertainty, transaction costs, and delays in cross-border cases.

Notably, the wording on legal capacity is characteristic not only for the RK. The lack of complete identity of rights, as in the RK, is also observed in the legislation of other CIS countries, namely Belarus and Kyrgyzstan. When applying the single principle of national treatment, in the RK, there is no equalisation of foreign nationals not only in rights and obligations, but also in granting them special rights (Fedorchenko et al., 2020). At the moment, the national legislation of Kazakhstan has gaps in the regulation of this issue, and therefore it is necessary to consider the possibility of introducing this norm either in the Civil Procedural Code of the RK (2015) or in the Law of the RK No. 488-V "On arbitrage" (2016).

The legal position of foreign nationals in civil proceedings is detailed in a series of international and bilateral treaties (Shchukin, 2018). This treaty-based safety net functions as a sustainability mechanism, cushioning vulnerable litigants and stabilising caseload management through predictable cooperation procedures. Thus, the Hague Convention (1954) and the Minsk Convention (1993) are universal ratified instruments. An important aspect enshrined in these international treaties is the fact that legal aid is provided free of charge, as well as exemption from payment and

reimbursement of court and notary fees, even though the latter is not mandated in the national legislation itself. However, this norm is prescribed individually in bilateral treaties on mutual legal assistance in civil, family, and criminal cases concluded with a series of countries in Europe (Georgia, Lithuania, Turkey), Asia (Vietnam, India, Mongolia, Korea, Pakistan, UAE), and the CIS (Azerbaijan, Kyrgyzstan, Turkmenistan, Uzbekistan) (Supreme Court..., 2022). These contracts have quite analogous content, prescribing the fundamental rights of citizens to access to the court system, provide legal aid without payment, and ensure benefits in the matter of court costs. The absence of such a treaty does not entail the RK's refusal to follow the principle of national treatment in civil cases with citizens of other states, but signing treaties with other countries would contribute to a more effective settlement of this issue and rid the existing regulations of gaps. However, targeted expansion/modernisation of the treaty network is a sustainability-oriented policy that closes protection gaps and streamlines recognition and service arrangements (Ospanova et al., 2024).

Another principle is most-favoured-nation treatment, the essence of which is that foreign persons are accorded treatment as favourable in access to the judicial system and protection of their legal rights as that which will be accorded in the future to nationals of a third state. However, the manifestation of this principle is more characteristic of trade agreements of the RK (Liu, 2020).

Civil proceedings involving foreign persons in the RK, as mentioned above, are governed by the Civil Procedural Code of the RK (2015). It follows that the activities of all courts, the procedural rights and obligations of foreign persons, the question of jurisdiction and jurisdiction and other aspects of civil proceedings are regulated within the limits of national law, unless otherwise prescribed by international treaties (Khamzin et al., 2015; 2016). Thus, according to the Civil Procedural Code of the RK, the courts of the RK consider cases involving foreign persons if the defendant organisation or the defendant citizen has its seat in the territory of the RK. The competence of the courts of the RK is regulated by Article 466 and Article 467 of the Civil Procedural Code of the RK, as well as within the framework of ratified international treaties. That is, the national legislator states that the courts have jurisdiction over cases involving foreign citizens, organisations, as well as international organisations (Civil Procedure Code..., 2015).

However, the analysis of the exclusive competence of the RK with the participation of foreign nationals deserves special attention. Thus, according to Article 467 of the Civil Procedural Code of the RK (2015), the legislator refers to the exclusive competence of the courts: questions about the right to

immovable property in the RK; claims against carriers, if the latter is located in the territory of the RK; cases of special action proceedings; questions about the dissolution of marriage between foreigners and citizens of the RK. Exclusive jurisdiction contains the protection of areas such as national legal order and state sovereignty (Civil Procedure Code..., 2015). The first case involves the protection of personal non-property and property rights, i.e., dissolution of marriage and adoption. In the second one – cases related to the right to immovable property of the RK, as it is directly located on the land plots of the Republic itself. For this reason, only Kazakh courts can hear such civil disputes, even if there are foreign parties. However, the list of exclusive international jurisdiction can be expanded, centred on the China model. Thus, comparing the Civil Procedural Law of the People's Republic of China, (2017), a draft to amend the Civil Procedural Law of the People's Republic of China was passed on 30 December 2022, which considerably expands the issue of exclusive jurisdiction. Thus, according to the draft law, the Chinese legislators intend to subject to the exclusive jurisdiction of Chinese courts the enforcement of contracts of Sino-foreign enterprises; the establishment, reorganisation, and liquidation of legal entities established in China; and intellectual property law cases that extend into China (Yuxin and Chang, 2023). Admittedly, these disputes also fall within the realm of national order and state sovereignty. However, presently, international intellectual property disputes are most effectively and frequently dealt with by the UK courts, even if they are based on foreign intellectual property rights and neither party is located in the UK (Brownlow, 2021). This is explained by the effective long-standing procedures for resolving foreign law disputes in the English courts (Clifford, 2019). Properly framed exclusive jurisdiction supports sustainability by increasing legal certainty and reducing forum shopping; however, over-expansion risks fragmentation, which should be weighed against efficiency and access considerations.

The issue of parallel court proceedings should also be effectively regulated by national legislation. The aforementioned draft Civil Procedural Law of the People's Republic of China (2017) proposes to allow a Chinese court to try the same case that is also tried in a foreign court. This is a situation in which one party files a lawsuit in a foreign court and the other party files a lawsuit in a Chinese court. In this case, if the Chinese court has jurisdiction, it can commence and conduct proceedings on the dispute. The only exception is where the parties have agreed in writing to choose a foreign court of exclusive jurisdiction, but where this does not violate sovereignty, security, or national interests (Yuxin and Chang, 2023). Kazakhstan's legislation currently contains only a rule on contractual jurisdiction, which regulates the issue of consideration of a dispute in a foreign court, with the

exception of cases with exclusive jurisdiction under Article 31 of the Civil Procedural Code of the RK (2015). The issue of the so-called "parallelism of court proceedings" is currently absent from the national legislation. That is, if a civil dispute between the same parties and on the same claim is already being considered in a court of a foreign state, the court of the RK leaves the application without consideration and stops proceedings on the case, which indicates that there is no parallelism of court processes. However, its incorporation into the national legal system would be a major step towards the development of civil litigation, promoting procedural sustainability through caseload efficiency, avoidance of duplicative proceedings, and consistent outcomes across fora.

The Civil Procedural Code of the RK (2015), as well as international legal treaties in force, regulate the issues of the trial process itself. The issue of obtaining ship's notices to a foreign person deserves special attention. Under the general rules, countries that have ratified the Hague Convention are obliged to serve notices following its requirements. Since the RK is a signatory to the Convention, according to its rules, notices, court notices, and summonses may be served through the Central Authority of the State of which the defendant is a national, through international mail, or directly through the embassy located in the country of the defendant. Notably, under the Convention, failure to properly serve court notices on a party who resides outside the Republic cancels all subsequent proceedings against that person, except where the address of the defendant is unknown (Hague Convention, 1954). In the current Code, the only reference to court orders for foreign citizens who reside in the territory of another country is the right to apply to foreign courts by a Kazakh court with an order to execute certain procedural actions. However, there is a complete absence of a process for this appeal, which can significantly affect the case from the moment it is opened, as well as during the preparation phase and at the trial itself. These norms should be included directly in the Civil Procedural Code of the RK (2015) in the section on consideration of disputes involving foreign persons, thereby aligning the Code with sustainability benchmarks of accessibility, transparency, and predictability.

Discussion

Judicial protection of rights and freedoms is one of the fundamental rights guaranteed by the Constitution of the RK (1995), which applies not only to citizens themselves but also to foreigners and stateless persons. Despite this,

problems in determining the legal status of a foreign person arise quite often, especially when taking part in court proceedings.

According to Law of the RK No. 2337 "On the Legal Status of Foreigners" (1995), a foreign citizen is a natural person who is not a citizen of the RK and has proof of citizenship of another country. In the absence of such evidence, the person shall be recognised as stateless. According to this law, the national legislator guarantees all rights, freedoms, and obligations established by the Constitution of the RK (1995) and international treaties on an equal footing with citizens, with the exception of a series of constitutional rights (e.g., suffrage). Furthermore, the law includes the right to appeal to a court to protect one's interests, indicating equality in the exercise of procedural rights. This applies not only to the protection of the rights of the individual, but also to the protection of the rights of foreign and international organisations, even though the Constitution of the RK (1995) explicitly mandates only the protection of human rights (Europen Justice, 2022).

Sabitova (2016) investigated the issue of the legal status of foreign nationals in the context of court proceedings. Thus, proceeding from Sabitova's findings, Kazakhstan's legislation is based on the following principles of the legal status of foreign nationals:

1. Equality in the enjoyment of rights and freedoms, as well as the performance of obligations on an equal basis with the citizens of the RK, the initial principle of which is the principle of national treatment.
2. Equality of aliens before the law regardless of origin, race, nationality, property, social status, faith, religion, language, descent, and other circumstances.
3. The possibility of imposing reciprocal restrictions on citizens whose countries have special restrictions on the rights and freedoms of citizens of the Republic.
4. Mandatory compliance with all applicable laws by foreigners as well as other participants in the civil turnover (Sabitova, 2016).

It is worth agreeing with the arguments of Sabitova, since these principles are expressed not only in the current laws, but also in international treaties to which Kazakhstan is a signatory. The principle of national treatment is particularly evident in the issue of international civil procedure discussed above.

Building on our results, Mahmutović and Alhamoudi (2024) conceptualise the rule of law as an enabling infrastructure for sustainable development; applied to Kazakhstan, formal national treatment for foreign litigants must be paired with effective access measures such as predictable remedies, language assistance, and proportionate costs to realise SDG 16.

Mills (2024) reframes sustainability as an internal constraint on jurisdictional design; for Kazakhstan this supports codifying coordination of parallel proceedings, clarifying connecting factors to limit opportunistic forum selection, and streamlining treaty-compliant service and evidence taking to lower systemic costs and improve predictability. From a city level perspective, Fan (2025) demonstrates that access to justice design advances urban sustainable development; for Kazakh urban courts that implies electronic filing for cross border users, guaranteed interpreter services, and publicly monitored time standards that enhance trust and attract investment.

According to the Civil Procedural Code of the RK (2015), foreign citizens enjoy the same procedural rights, and the rule on civil procedural legal and legal capacity of both a foreign citizen and an organisation, prescribed in Articles 473-474, speaks about the guarantee of its implementation. As Talzhanov (2014) points out, the existence of these norms contributes to the active growth of participation of foreign individuals and organisations in international economic life. In case of deprivation of the right to a free defence and a fair trial in the state, the conduct of business activities and, consequently, the integration of the RK into the world economy and socio-political system will be suspended. However, there is still no full equation of foreign citizens with citizens of the Republic. An example of this is the granting of benefits in the arbitration process discussed earlier. This is exactly what Rachman (2021) points out in his study. Rachman states that despite the desire and obligation of each country to provide and ensure legal protection to the alien, it will still be provided within certain limitations, based on the lack of a close legal connection, namely nationality.

As Shchukin (2018) points out, the Civil Procedural Code of the RK (2015) does not contain restrictions or conditions for applying to the court for protection of one's rights and interests. This right is granted to both foreign individuals and organisations, regardless of their permanent residence in the territory of the Republic, or whether they are visiting the country as tourists or students. For instance, some legislators (Argentina, Venezuela) prescribe mandatory bail to cover court costs. Although the Civil Procedural Code of the RK does not directly contain this norm, this aspect is regulated by the Hague and Minsk Conventions, which the Republic has ratified. Thus Article 17 of the Convention mandates that no bond or security in any form may be demanded from nationals of a Contracting State residing in one of those States and appearing as plaintiffs or third parties before the courts of the other State on the ground that they are aliens or have no permanent or temporary residence in that country (Hague Convention, 1954). These conventions also make provision for access to free legal aid, although this issue is more fully expressed in bilateral treaties.

The issue of the jurisdiction of courts in civil proceedings is one of the key areas of discussion both in academia and among practitioners. The limits of jurisdiction of civil cases involving foreign persons are determined by Chapter 57 of the Civil Procedural Code of the RK (2015). International procedural science identifies three systems for determining jurisdiction: according to the nationality of the parties to the dispute, according to the "presence of the defendant", and according to the rule of extending internal territorial jurisdiction to cases involving foreign nationals. Thus, in the first variant, it is a question of sufficient competence of the court to consider a civil dispute in case the dispute concerns legal relations to which a citizen of this country is a party, and, for example, the place of the transaction does not play a role. In the second case, the court has jurisdiction to hear the case if the defendant stayed in the state even for a brief period. However, Roper (2018) is inclined to the idea of the so-called principle of "universal jurisdiction", which allows a state to exercise jurisdiction over cases with which the state has no ties, territorial, national, or otherwise. This is the type in which the English courts operate. The Civil Procedural Code of the RK (2015) clearly establishes the competence of the courts of the Republic, including the right to hear a case involving foreign persons if:

1. The respondent organisation or the respondent citizen has a place of residence in the territory of the RK.
2. The representative office of a foreign person is located in Kazakhstan.
3. The Respondent owns property in Kazakhstan.
4. In a case on establishment of paternity, collection of alimony, if the plaintiff has a place of residence in the RK.
5. Regarding compensation for damage caused by injury or other damage to health, if the damage was caused in Kazakhstan or the claimant has a place of residence in Kazakhstan.
6. In terms of compensation for damage to property that occurred on the territory of the RK.
7. If the claim arises out of a contract the performance of which took place in Kazakhstan or was to be performed.
8. Concerning unjust enrichment occurring in the territory of Kazakhstan.
9. In a case on the dissolution of marriage, if one of the spouses is a citizen of the RK or one of the spouses has a place of residence in the territory of Kazakhstan.
10. Concerning the protection of honour and dignity if the claimant resides in Kazakhstan.
11. Regarding the protection of personal data rights or compensation for moral damages if the plaintiff resides in the territory of the RK (Civil Procedure Code of the RK, 2015).

Thus, having analysed this issue, all three systems of jurisdiction have been implemented in the national legislation of Kazakhstan. However, some researchers argue that the definition of jurisdiction based on nationality is quite controversial and needs to be reconsidered. The fact is that de jure, an individual may be a citizen of one country, but de facto reside in another country for a long time, conduct business activities there, and accordingly have a weak connection with the state of which they are a citizen. Agreeing with the opinion of Muidenova et al. (2020), it is worth noting that the most effective is jurisdiction in civil proceedings depending on the last place of residence, which is the most common in the Civil Procedural Code of the RK (2015). However, it would also be logical to establish a certain period of residence to understand the existence of a stable legal link between the foreign person and the state in which they reside.

There are also debates around the judicial process itself. Thus, Talzhanov (2014) points out that there are problems with legal regulation regarding the proper execution of documents in consideration of civil disputes. Article 475 regulates the recognition of documents issued by other states, but the Code does not regulate the proper execution of documents by the Republic itself, which may lead to doubts about the authenticity and reliability of the documents, as well as to the cancellation of the dispute due to improper notification of the defendant. The only way to eliminate the gap in this area is to amend the Code to clearly regulate this issue.

Analogously, there is a problem with the very notification of defendants who do not reside in Kazakhstan, which is also pointed out by Talzhanov (2014). There is still no clear mechanism for notifying the parties to a civil action by the national legislator, although the regulation is based on international treaties. However, building a responsive notice structure could help avoid the problem of inadequate notice, which often leads to the closure of proceedings.

Conclusions

The findings of the study suggest that despite the existence of an extensive body of legislation in the field of settlement of civil proceedings involving foreign persons, there are still many gaps in the legal regulation of this issue. Admittedly, the national regime, which is the basis of the legal status of foreign nationals, assumes that legal proceedings are conducted identically to those involving exclusively Kazakh nationals, but it is still impossible to speak of an absolute equation. Sustainable legal development requires not only formal national treatment but also functional equality in

practice. Exceptions are such aspects as the procedural status of foreign persons, their procedural legal competence and legal capacity, jurisdiction of the courts of the RK in cases involving foreign individuals and organisations. The process of court orders, recognition of documents, in the courts of Kazakhstan, which are issued by other states, is also different.

Thus, after studying the national legislative base, the legislative base of other countries, as well as a series of international treaties in the field of civil disputes involving foreign persons, it can be concluded that it is necessary to improve not only internal laws, but also to promote the conclusion of new bilateral treaties, the purpose of which is to regulate in detail the rights and freedoms of foreign persons in the sphere of their access to the judicial system. Expanding and updating the treaty network would advance sustainable legal development and stabilise cross border cooperation. As of today, the RK already has a series of bilateral agreements with such countries as Georgia, Latvia, Turkey, India, Mongolia, Pakistan, UAE. However, considering the transformation processes and the entry of Kazakhstan's economy into the world market, as well as the establishment of transnational ties with European countries, this area should also be investigated.

The study found that issue of the civil litigation process itself also requires improvement. It is a question of both expanding the jurisdiction of the courts, the basis of which may be the project of the Law of the Republic of China, and eliminating the most typical problems faced by the courts when considering a case. Such problems include the lack of regulation of the process of sending ship's notices to foreign persons who live outside Kazakhstan. Furthermore, the process of proper execution of documents by the RK itself for sending to foreign persons, the verification of civil procedural capacity, and the need to check with the extract from the commercial register regarding the status of foreign organisations are also problems. In each of the mentioned cases, it is necessary to talk about amending the existing Civil Procedural Code of the RK (2015), namely Chapter 57, which regulates international civil procedure or adopting separate regulations with reference to them in the Code. Such amendments should be evaluated against sustainability criteria of accessibility, transparency, predictability, and resilience.

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