

УДК 347.9

**КОНУСОВА Венера Төлеутайқызы**

*Заң ғылымдарының кандидаты, Қазақстан Республикасы Заңнама және құқықтық ақпарат институтының азаматтық, азаматтық процестік заңнама және атқарушылық іс жүргізу бөлімінің бас ғылыми қызметкері*

### **АЗАМАТТЫҚ ПРОЦЕСТЕГІ ӘДІЛЕТТІЛІК: ҚАЗАҚСТАНДЫҚ ҚҰҚЫҚТЫҚ КОНТЕКСТІ ЗЕРТТЕУ**

**Аннотация.** Мақалада сот төрелігін жүзеге асыру тәртібін реттейтін нормаларда әділеттілік идеясын қабылдау тұрғысынан халықаралық актілер мен ұлттық заңнаманың мазмұны талданады.

*Іс жүргізу заңнамасын талдау әділеттілік категориясын заңнамалық тұрғыдан бекіту тәсілдеріндегі айырмашылықты көрсетті. Әсіресе, Қазақстан Республикасының Азаматтық процестік кодексінде (бұдан әрі – ҚР АПК) әділдік категориясын кеңінен қабылдау байқалмайды.*

*Доктриналық дереккөздерге және халықаралық актілерге сілтеме жасай отырып, мақалада әділ сот талқылауына субъективті құқықтың түсінігі мен құрылымы қарастырылады. Жүргізілген талдау нәтижелері бойынша автор ҚР АПК-нің және «Атқарушылық іс жүргізу және сот орындаушыларының мәртебесі туралы» Қазақстан Республикасының Заңының жекелеген ережелерін жетілдіру жөнінде ұсыныстар тұжырымдауға әрекет жасады.*

**Түйін сөздер:** әділеттілік, сот ісін жүргізу қазидаты, әділеттілік қазидаты, азаматтық процестің қазидаттары, әділ сот талқылауына құқық, азаматтық процестің міндеттері, әділеттілік санаты, әділ сот талқылауы.

**КОНУСОВА Венера Тулеутаевна**

*Кандидат юридических наук, главный научный сотрудник отдела гражданского, гражданского процессуального законодательства и исполнительного производства Института законодательства и правовой информации Республики Казахстан*

### **СПРАВЕДЛИВОСТЬ В ГРАЖДАНСКОМ ПРОЦЕССЕ: ИЗУЧЕНИЕ КАЗАХСТАНСКОГО ПРАВОВОГО КОНТЕКСТА**

**Аннотация.** В данной статье анализируется содержание международных актов и национального законодательства относительно восприятия идеи справедливости в нормах, регулирующих отправление правосудия. Анализ процессуального законодательства выявил различия в подходах к законодательному закреплению категории справедливости. В частности Гражданский процессуальный кодекс Республики Казахстан (далее — ГПК РК) не демонстрирует всестороннего восприятия категории справедливости. В статье рассматриваются понятие и структура субъективного права на справедливое судебное разбирательство. По результатам анализа автор предпринимает попытку сформулировать предложения по совершенствованию отдельных положений ГПК РК и Закона Республики Казахстан «Об исполнительном производстве и статусе судебных исполнителей».

**Ключевые слова:** справедливость, принцип судебного производства, принцип спра-

ведливости, принципы гражданского процесса, право на справедливое судебное разбирательство, цели гражданского процесса, категория справедливости, справедливое судебное разбирательство.

**KONUSOVA Venera Tuleutaevna**

*Candidate of Legal Sciences, Chief Researcher of the Department of Civil, Civil Procedural Legislation and Enforcement Proceedings of the Institute of Legislation and Legal Information of the Republic of Kazakhstan*

## FAIRNESS IN CIVIL JUSTICE: INSIGHTS FROM KAZAKHSTAN'S LEGAL FRAMEWORK

**Annotation.** *This article analyzes the content of international acts and national legislation regarding the perception of the idea of justice in the norms regulating the administration of justice. The analysis of procedural legislation revealed differences in approaches to the legislative consolidation of the category of justice. In particular, the Civil Procedure Code of the Republic of Kazakhstan (hereinafter referred to as CiPC RK) does not exhibit a comprehensive perception of the category of justice. The article examines the concept and structure of the subjective right to a fair trial. Based on the results of the analysis, the author attempts to formulate proposals to improve certain provisions of the Code of Civil Procedure of the RK and the Law of the Republic of Kazakhstan “On Enforcement Proceedings and the Status of Court Bailiffs”.*

**Key words:** *justice, principle of judicial proceedings, principle of justice, principles of civil procedure, the right to a fair trial, objectives of civil procedure, category of justice, fair trial.*

### Introduction

At the current stage of societal and state development, the idea of justice has become increasingly relevant. Ensuring justice in societal structures is perceived as a key paradigm for the further development of the state. This idea was central in the Address of the President of Kazakhstan, K.K. Tokayev, to the people of Kazakhstan, titled “A Just State. United Nation. Prosperous Society” (hereinafter referred to as the Address), which emphasizes the importance of improving the quality of justice administration [1]. In light of this Address, two draft laws were developed to reform

the judiciary: the draft Constitutional Law “On the Judicial System and Status of Judges of the Republic of Kazakhstan” and the draft law “On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on Procedural Legislation and Judicial System Reform”<sup>1</sup>. The latter draft law included amendments to the CiPC RK concerning the establishment of the category of justice. The amendments were adopted in 2023; however, they only included the designation of the category of justice in the norm defining the objectives of civil procedure<sup>2</sup>.

The need to understand justice in the con-

1 Пути совершенствования судебной системы обсудили сенаторы с руководством Верховного Суда — [Ways to Improve the Judicial System Discussed by Senators with the Leadership of the Supreme Court]. — [Electronic resource]. — Available at: <https://dknews.kz/ru/politika/270688-puti-sovershenstvovaniya-sudebnoy-sistemy-obsudili> (Accessed: January 10, 2023).

2 Закон Республики Казахстан от 27 марта 2023 года № 216-VII ЗРК «О внесении изменений и дополнений в некоторые законодательные акты Республики Казахстан по вопросам совершенствования процессуального законодательства и реформирования судебной системы» [Law of the Republic of Kazakhstan dated March 27, 2023, No. 216-VII ZRK “On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on Improving Procedural Legislation and Reforming the Judicial System”]. — [Electronic resource]. — Available at: <https://adilet.zan.kz/rus/docs/Z2300000216#z34> (Accessed: July 20, 2024).



text of human rights, equality before the law and court, as well as ensuring fairness in the administration of justice, remains relevant. Considering the necessity to further explore the category of justice and strengthen its significance, this article attempts to analyze the current legislative regulation of the category and its prospects for improvement within the framework of civil procedure.

### Materials and Methods

For the purposes of this study, the works of Kazakhstani and foreign scholars, international acts, and national legislation were examined. Special attention was given to the doctrinal interpretation of international treaty norms concerning the right to a fair trial.

The methodological foundation of the research includes general philosophical and specific scientific methods of inquiry. Logical methods of cognition such as analysis, synthesis, and hypothesis were used, along with philosophical categories like form and content, general and specific. Special methods of legal research were applied, including logical-legal analysis of legislation, comparative legal methods, and others.

### Discussion

The concept of justice has consistently sparked and continues to spark keen interest among researchers from various fields of knowledge. This category has been thoroughly studied from the perspectives of philosophy, history, political science, and other areas of knowledge. In jurisprudence, the significance of this concept is examined from the viewpoints of legal theory and history, as well as from the perspectives of international and national law. In current law, the concept of justice is enshrined at the level of international

treaties and national legislation, and depending on the sphere of social relations, this concept is endowed with appropriate regulations. This study analyzes international and national acts that constitute the current law of the Republic of Kazakhstan (hereinafter – RK) with the aim of examining the concept of justice in civil proceedings.

### The concept of justice in international acts and national legislation

The concept of a fair trial is enshrined in international acts as a standard and requirement for the administration of justice, whose fulfillment implies the realization of the right to a fair trial.

The concept of a fair trial is established in Article 10 of the Universal Declaration of Human Rights of 1948, which states: “Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him”<sup>3</sup>.

As an independent article, the right to a fair trial is enshrined in Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms (1950, Rome)<sup>4</sup>. This provision elaborates on the content of the right, contributing to a fuller understanding of its structure. However, it should be noted that the aforementioned convention is not a source of law in Kazakhstan.

The right to a fair trial is protected by Paragraph 1 of Article 14 of the International Covenant on Civil and Political Rights, which stipulates: “In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent,

3 Universal Declaration of Human Rights. Adopted by resolution 217 A (III) of the United Nations General Assembly on 10 December 1948. [Electronic resource]. Available at: <https://www.ohchr.org/en/human-rights/universal-declaration/translations/english> (Accessed: 28 July 2024).

4 Text of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950. — [Electronic resource]. Available at: <https://digitallibrary.un.org/record/578658?ln=ru&v=pdf> (Accessed: 27 July 2024).

independent and impartial tribunal established by law”<sup>5</sup>.

Similar guarantees are provided in Paragraph 1 of Article 6 of the Convention of the Commonwealth of Independent States on Human Rights and Fundamental Freedoms of May 26, 1995 (Minsk), which states: “All persons are equal before the court. Everyone has the right to a fair and public hearing within a reasonable time by an independent and impartial court. Judgments are pronounced publicly, but the hearing of a case may be closed to the public in the interests of public order, state security, or when the interests of minors or the protection of the private life of the parties so require”<sup>6</sup>.

The Universal Charter of Judges in Article 1 guarantees the realization of the right to a fair trial through the activities of the court: “Judges shall ensure that everyone has the right to a fair trial. They shall promote the timely, fair, and public hearing of cases by an independent and impartial tribunal”<sup>7</sup>.

Referring to national legislation, it should be noted that the Constitution of the Republic of Kazakhstan, in Paragraph 2 of Article 13, while granting everyone the right to judicial protection of their rights and freedoms, does not emphasize the requirement of justise in such judicial protection<sup>8</sup>. However, Paragraph 1 of Article 4 of the Constitution of the Republic of Kazakhstan stipulates that the current

law in the Republic of Kazakhstan includes the norms of international treaty and other obligations of the Republic. Moreover, according to Paragraph 3 of Article 4 of the Constitution of the Republic of Kazakhstan, “International treaties ratified by the Republic shall have priority over its laws.” This provides a basis for the necessity of fully integrating and incorporating into the national legal fabric the legal construction of the right to a fair trial, including the guarantees for its implementation, in accordance with the approaches adopted in international acts.

An example of the orientation towards ensuring the fairness of judicial proceedings in national legislation is demonstrated in Subparagraph 2 of Paragraph 1 of Article 28 of the Constitutional Law of the Republic of Kazakhstan “On the Judicial System and the Status of Judges of the Republic of Kazakhstan,” where the category of fairness, in the context of the right to judicial protection, is provided as a requirement for the activity of a judge (Subparagraph 2 of Paragraph 1 of Article 28). This same meaning is also provided in the text of the judge’s oath (Paragraph 1 of Article 32)<sup>9</sup>.

Interestingly, the preamble to the Code of Judicial Ethics, adopted by the VII Congress of Judges of the Republic of Kazakhstan on November 21, 2016, declares the independence of the judiciary as a fundamental element of the right to a fair trial, among other

5 International Covenant on Civil and Political Rights. New York, December 16, 1966. [Electronic resource]. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> (Accessed: 30 July 2024).

6 О правах и основных свободах человека Конвенция Совета Глав Государств Содружества Независимых Государств от 26 мая 1995 года г. Минск. — [Electronic resource]. Available at: [https://adilet.zan.kz/rus/docs/H950000050\\_](https://adilet.zan.kz/rus/docs/H950000050_) (Accessed: 27 July 2024).

7 Всемирная хартия судьи. Принята Центральным советом МАС в Тайване 17 ноября 1999 года. — [Universal Charter of the Judge. Adopted by the Central Council of the International Association of Judges in Taiwan on November 17, 1999. — [Electronic resource]. — Available at: [https://www.unodc.org/res/ji/import/international\\_standards/the\\_universal\\_charter\\_of\\_the\\_judge/universal\\_charter\\_2017\\_russian.pdf](https://www.unodc.org/res/ji/import/international_standards/the_universal_charter_of_the_judge/universal_charter_2017_russian.pdf) (Accessed: July 22, 2024).

8 Constitution of the Republic of Kazakhstan. Unofficial translation. Constitution adopted on August 30, 1995, at the republican referendum. [Electronic resource]. Available at: <https://adilet.zan.kz/eng/docs/K950001000> (Accessed: 27 July 2024).

9 On the Judicial System and Status of Judges in the Republic of Kazakhstan. Unofficial translation. Constitutional Law of the Republic of Kazakhstan dated December 25, 2000, No. 132. [Electronic resource]. Available at: <https://adilet.zan.kz/eng/docs/Z000000132> (Accessed: 22 July 2024).

foundations for the administration of justice<sup>10</sup>.

Referring to the text of codified normative legal acts regulating the administration of justice, it becomes apparent that there is no uniform approach to understanding and enshrining the category of fairness. In particular, this category is enshrined as:

- An objective of the criminal process in Part 1 of Article 8 of the Criminal Procedure Code of the Republic of Kazakhstan (hereinafter – CrPC RK)<sup>11</sup>;

- A standard, a requirement for the quality of consideration of a criminal case in Part 2 of Article 57, Part 1 of Article 121, Article 563 of the CrPC RK;

- A requirement for the quality of a court's verdict or ruling in Part 1 of Article 424, Part 1 of Article 426, Part 1 of Article 432, Part 14 of Article 494, Part 1 of Article 662 of the CrPC RK;

- An objective of civil proceedings in Article 4 of the CiPC RK<sup>12</sup>;

- A mandatory criterion for resolving a dispute over rights in Part 5 of Article 8 of the CiPC RK;

- A principle-norm in Article 8 of the Administrative Procedural and Process-Related Code of the Republic of Kazakhstan (hereinafter – APPK RK)<sup>13</sup>.

From the above, it is evident that in national legislation regulating the administration of justice, the category of fairness is used as an objective, a principle, and a requirement for the quality of the administration of justice. At the same time, national legislation has not ad-

opted the concept of “the right to a fair trial” as formulated in international acts.

### **The Concept and Structure of the Right to a Fair Trial**

In the context of international acts, the right to a fair trial is primarily perceived as a subjective right of a fundamental nature. Therefore, before considering possible ways of enshrining the category of justice in the text of the CiPC RK (as a principle, objective, or requirement for the quality of the administration of justice), we should delve into the understanding of the significance of the right to a fair trial. In this regard, we turn to what we believe to be the most comprehensive definition of this right, proposed by I.B. Glushkova. According to the scholar, “the right to a fair trial is a complex subjective right of an individual, guaranteed by international and national norms, representing a set of procedural rights, the implementation of which depends not on the will of the person to whom it belongs, but on the actions of the bodies and persons considering the case and the procedural rules applied” [2, p. 8].

The subjective right to a fair trial, being complex, includes a number of individual procedural rights aimed at ensuring the justice of the judicial proceedings as a whole. The complex nature of the right complicates the perception of its structure, resulting in some ambiguity in its understanding.

To clarify the structure of the right to a fair trial, the results of S.F. Afanasyev's scientific research are particularly valuable. The schol-

10 The Code of Judicial Ethics. Adopted by VII Congress of Judges Republic of Kazakhstan November 21, 2016 — [Electronic resource]. Available at: <https://sud.gov.kz/eng/content/code-judicial-ethics> (Accessed: 27 July 2024).

11 Criminal Procedure Code of the Republic of Kazakhstan. Unofficial translation. The Code of the Republic of Kazakhstan dated July 4, 2014, No. 231. [Electronic resource]. Available at: <https://adilet.zan.kz/eng/docs/K1400000231> (Accessed: 27 July 2024).

12 Civil Procedural Code of the Republic of Kazakhstan. Unofficial translation. Code of the Republic of Kazakhstan dated October 31, 2015, No. 377-V LRK. [Electronic resource]. Available at: <https://adilet.zan.kz/eng/docs/K1500000377> (Accessed: 27 July 2024).

13 Administrative Procedural and Process-Related Code of the Republic of Kazakhstan. Unofficial translation. Code of the Republic of Kazakhstan dated June 29, 2020, No. 350-VI. [Electronic resource]. Available at: <https://adilet.zan.kz/eng/docs/K2000000350> (Accessed: 27 July 2024).



ar, having thoroughly analyzed the nature of the right to a fair trial through the lens of the European Convention and taking into account the official interpretation of the international treaty by the European Court, identifies the following four components: institutional, organic, procedural, and special [3, p. 16]. Let us briefly examine each of these elements of the right to a fair trial.

The institutional element implies the criteria that a general jurisdiction court must meet as a body competent to hear and resolve civil cases. Within this system of criteria are the independence and impartiality of the court.

The organic element is manifested through the dialectical unity of the right to access to justice, strictly regulated procedural activities, and the legal relationships encompassing the participants in the process that arise in connection with the hearing and resolution of a civil case [3, p. 16].

The procedural element implies a minimum set of mandatory procedural guarantees implemented by the court of first instance. Currently, this list of guarantees is not finalized and continues to be shaped by the case law of the European Court of Human Rights, according to which the minimum set of mandatory procedural guarantees implemented by the court of first instance includes: public hearings; trials within a reasonable time; equal procedural opportunities for the parties under the principle of adversarial proceedings; receiving a reasoned court decision; enforcement of a court decision that has entered into legal force [3, pp. 16-17].

The special element, according to S.F. Afanasyev, covers additional guarantees for the administration of justice in criminal cases, enshrined in Paragraphs 2 and 3 of Article 6 of the Convention for the Protection of Human

Rights and Fundamental Freedoms [3, p. 33].

From the aforementioned elements of the right to a fair trial, one might get the impression that ensuring this right is the exclusive responsibility of the state. However, as we know, every right corresponds to obligations. In this case, undoubtedly, fair and effective judicial proceedings are only possible when all participants in the process fulfill their obligations. For example, the enforcement of a court decision that has entered into legal force, as the culmination of the entire judicial process, is only possible when the debtor fulfills their obligations.

Thus, while generally agreeing with the definition of the right to a fair trial proposed by I.B. Glushkova, we would add that the effective realization of this right is only possible with the fulfillment of the corresponding procedural obligations.

### **Possible Perspectives for Enshrining the Category of Fairness in Civil Procedural Legislation**

In the current version of the CiPC RK the category of justice, which is one of the fundamental principles, is unjustifiably ignored. The mention of justice as a mandatory criterion based on which a dispute over rights is resolved occurs only once in Part 5 of Article 8 of the CiPC RK<sup>14</sup>.

Having considered the definition and structure of the right to a fair trial, and taking into account the approach developed by international acts, it seems necessary to enshrine this fundamental subjective right for the judiciary in the text of the CiPC RK. Proclaiming this right will allow for different emphases in the realization of the right to judicial protection, placing the requirement for the quality of justice at the forefront.

According to G.Zh. Suleimenova, “The

14 Civil Procedural Code of the Republic of Kazakhstan. Unofficial translation. Code of the Republic of Kazakhstan dated October 31, 2015, No. 377-V LRK. [Electronic resource]. Available at: <https://adilet.zan.kz/eng/docs/K1500000377> (Accessed: 27 July 2024).

right to a fair trial is a universally recognized international legal principle. This principle means that the activities of the court should be carried out in the interests of society, the state, and the individual, rather than in the interests of one of the parties to the process or individual citizens, officials, or certain groups. The right to a fair trial presupposes, above all, the right to the restoration of violated rights, which, in turn, is associated with such fundamental principles as the right to judicial protection (ensuring access to justice), which must be genuinely ensured” [4].

To implement the proposed approach, it seems possible to enshrine the right to a fair trial in Article 8 “Judicial Protection of Rights, Freedoms, and Legitimate Interests of an Individual” of the CiPC RK, by amending Part 1 of this article as follows: “1. Everyone has the right to a fair trial when applying to the court, in the manner prescribed by this Code, for the protection of violated or disputed rights, freedoms, or legitimate interests.”

Since the idea of fairness is a legal axiom and a fundamental principle of justice, in addition to enshrining the right to a fair trial, it seems important to provide in the CiPC RK a norm proclaiming fairness as a principle of civil proceedings. As is known, the principles of justice and the rule of law are determinants of the right to a trial.

According to Z.Kh. Baymoldina, fairness is the cornerstone of justice. The scholar proposes to provide for a principle norm and stipulate that justice in civil cases is administered on the basis of fairness by a fair court.

According to the scholar, the principle of justice should permeate the content of other principles of civil proceedings and all institutions of civil procedural law [5, p. 6].

In 2018, the Chairman of the Supreme Court of the Republic of Kazakhstan, Zhakip Asanov, announced the launch of a judicial system modernization program titled “Seven Stones of Justice,” which covers seven conceptual directions for improving the judicial system. Due to its particular significance, justice was indicated as the first “stone” in this program<sup>15</sup>.

Enshrining fairness as a principle norm would elevate justice to the highest value of civil proceedings at the legislative level.

In our opinion, the category of fairness deserves to be enshrined in the CiPC RK as an independent norm. To formulate the wording of the norm, one can interpret the content of international acts proclaiming the right to a fair trial. An example of applying this approach is Article 8 of the APPK RK<sup>16</sup>.

Moreover, considering the approaches developed based on the application of international acts proclaiming the right to a fair trial, justice also encompasses the stage of enforcement of judicial decisions, which requires corresponding amendments to Article 3 “Basic Principles of Enforcement Proceedings” of the Law of the Republic of Kazakhstan “On Enforcement Proceedings and the Status of Court Bailiffs”<sup>17</sup>. It should be noted that the idea of ensuring justice in enforcement proceedings is not entirely new for domestic enforcement proceedings. For example, Paragraph 22 of the

15 Бюллетень Верховного Суда Республики Казахстан №3/2018. – С. 2-11. [Bulletin of the Supreme Court of the Republic of Kazakhstan No. 3/2018. – pp. 2-11]. — [Electronic resource]. — Available at: <https://sud.gov.kz/rus/kategoriya/byulleten-vs> (Accessed: 27 July 2024).

16 Administrative Procedural and Process-Related Code of the Republic of Kazakhstan. Unofficial translation. Code of the Republic of Kazakhstan dated June 29, 2020, No. 350-VI. [Electronic resource]. Available at: <https://adilet.zan.kz/eng/docs/K2000000350> (Accessed: 27 July 2024).

17 On Enforcement Proceedings and the Status of Enforcement Agents. Unofficial translation. The Law of the Republic of Kazakhstan dated 2 April, 2010 No 261-IV. — [Electronic resource]. Available at: <https://adilet.zan.kz/eng/docs/Z100000261> (Accessed: 27 July 2024).

normative resolution of the Supreme Court of the Republic of Kazakhstan dated March 31, 2017, No. 1 “On the Application by Courts of Certain Provisions of Legislation on Enforcement Proceedings” provides that: “When granting a deferral or installment plan for enforcement, the courts should be guided by the balance of rights and legitimate interests of the creditor and the debtor so that the established order of enforcement of the court decision meets the requirements of reasonableness, justice, and does not affect the essence of the guaranteed rights of the persons involved in the enforcement proceedings, as well as the rights and legitimate interests of third parties ...”<sup>18</sup>.

### Results

The analysis of approaches to regulating the category of justice in international acts and national legislation allows for the formulation of the following conclusions and proposals:

1. In national legislation regulating the administration of justice, the category of justice is enshrined as a goal, principle, and requirement for the quality of justice. However, the “right to a fair trial,” as formulated in international acts, has not been fully adopted by national legislation.

2. The right to a fair trial is a complex subjective right of an individual, encompassing a variety of procedural rights. The exercise of this right depends not only on the will of the right holder but also on the actions of the bodies and individuals considering the case. Moreover, the effective realization of the right

to a fair trial requires the fulfillment of corresponding procedural obligations.

3. The CiPC RK makes very limited references to the category of justice, despite its being fundamental to the administration of justice. There is a clear need for the legislative enshrinement of the right to a fair trial and the category of fairness as a whole.

4. To legislatively enshrine the category of justice and the right to a fair trial, it is proposed to: a) Provide for the right to a fair trial in Part 1 of Article 8 of the CiPC RK; b) Enshrine the principle of justice as an independent norm, reflecting the approaches of international acts, in Chapter 2 of the CiPC RK; c) Include the principle of justice in Article 3 of the Law of the Republic of Kazakhstan “On Enforcement Proceedings and the Status of Court Bailiffs,” since the enforcement of a judicial decision is the final phase in the administration of justice.

### Conclusion

Justice, being a legal axiom, determines the ideological and moral premises and specific legal guarantees for the realization of the right to a fair trial. There is a need for an expanded perception of the concept of justice in national civil procedural legislation to form a sustainable model of justice oriented towards international standards in the field of ensuring human rights and freedoms. Moreover, for these purposes, issues of ensuring justice, the rule of law, and human rights in the current system of regulatory legal regulation and law enforcement should remain in the focus of legal science and practice.

### List of sources used

1. A fair state. One nation. Prosperous society. President Kassym-Jomart Tokayev’s State of the nation address on September 1, 2022. — [Electronic resource]. — Available at: <https://adilet.zan.kz/rus/docs/P170000001S> (Accessed: July 22, 2024).

<sup>18</sup> Нормативное постановление Верховного Суда РК от 31 марта 2017 года № 1 «О применении судами некоторых норм законодательства об исполнительном производстве». [Normative Resolution of the Supreme Court of the Republic of Kazakhstan dated March 31, 2017, No. 1 “On the Application by Courts of Certain Provisions of Legislation on Enforcement Proceedings”]. — [Electronic resource]. — Available at: <https://adilet.zan.kz/rus/docs/P170000001S> (Accessed: July 22, 2024).



[www.akorda.kz/en/president-kassym-jomart-tokayevs-state-of-the-nation-address-181857](http://www.akorda.kz/en/president-kassym-jomart-tokayevs-state-of-the-nation-address-181857) (Accessed: 27 July 2024).

2. Глушкова И.Б. Реализация права на справедливое судебное разбирательство в арбитражном процессе. [Glushkova, I.B. Implementation of the Right to a Fair Trial in Arbitration Proceedings]. Abstract of dissertation for the degree of Candidate of Legal Sciences. - Saratov, 2011. – 28 p.

3. Афанасьев С.Ф. Право на справедливое судебное разбирательство: теоретико-практическое исследование влияния Европейской конвенции о защите прав человека и основных свобод на российское гражданское судопроизводство. [Afanasyev, S.F. The Right to a Fair Trial: A Theoretical and Practical Study of the Influence of the European Convention on Human Rights on Russian Civil Procedure]. Abstract of dissertation for the degree of Doctor of Legal Sciences. - Saratov, 2010. – 66 p.

4. Сулейменова Г.Ж. Право каждого на рассмотрение его дела с соблюдением всех требований закона и справедливости компетентным, независимым и беспристрастным судом. [Suleimenova, G.Zh. The Right of Everyone to Have Their Case Heard by a Competent, Independent, and Impartial Tribunal, Observing All the Requirements of Law and Justice. — [Electronic resource] — Available at: [https://online.zakon.kz/Document/?doc\\_id=35300429](https://online.zakon.kz/Document/?doc_id=35300429) (Accessed: 17 July 2024).

5. Баймолдина З.Х. Принцип справедливости гражданского судопроизводства. [Baymoldina, Z.Kh. The Principle of Fairness in Civil Procedure. — [Electronic resource]. — Available at: [https://online.zakon.kz/Document/?doc\\_id=30198375](https://online.zakon.kz/Document/?doc_id=30198375) (Accessed: 17 July 2024).]