

Results of implementation of conciliation procedures in civil proceedings

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Abstract. The overload of courts, as well as the duration of consideration of cases, necessitates the use of alternative dispute resolution measures. This indicates the relevance of improving conciliation procedures in the context of civil proceedings in Kazakhstan. The purpose of the work was to study the specifics of ensuring conciliation procedures in the resolution of civil law disputes. The article used the method of analysis, synthesis, comparison, deduction, generalisation, formal-legal. As a result, the history of the formation of the institute of peaceful settlement of disputes in civil proceedings of the Republic of Kazakhstan was revealed. The system of alternative means of dispute settlement, their advantages, and role in strengthening social relations in the country was expressed. In the work, it was established that the settlement of disputes on the basis of conciliation procedures is consistent with the conceptual approaches to the development of the national legal system in Kazakhstan. It has been established those civil proceedings in Kazakhstan are characterized by simplification and humanisation. As a result of the application of conciliation procedures not only improves the activity of the judicial system, but also increases the level of legal consciousness of the Kazakh people, their trust in the judiciary. Thus, the socio-legal significance of informal and flexible ways of conflict resolution has been proved, which is an important component of civil proceedings in Kazakhstan. In the course of the study, the content of various normative legal acts was studied to reflect the peculiarities of the regulation of the procedure for the settlement of private legal disputes on the basis of conciliation procedures. Particular attention was focused on the provisions of conceptual and strategic documents that enshrine the development of conciliation procedures as one of the key objectives of legal proceedings and the national legal system. The findings of the study can be used in the development of national strategies to enhance the role of judicial mediation in civil proceedings in Kazakhstan

Keywords: mediation; alternative dispute resolution; negotiations; participatory agreement; private legal conflict

Introduction

Modern conditions of implementation of legal proceedings in the Republic of Kazakhstan (RK) are characterized by a high increase in the number of court cases in relation to various types of legal relations, as well as related to the appeal of individuals and legal entities to judicial institutions (Bureau of National Statistics, 2024b). The issue of settling these disputes on the basis of other means and methods becomes relevant. In this case, the approach to the involvement of various conciliation procedures is prioritized, and therefore they acquire special significance for the judicial process. It should be noted that the development of alternative means of conflict resolution involves ensuring that citizens have the right to judicial protection of their rights, freedoms and legitimate interests. Since this is a constitutional right, it is inadmissible to apply restrictions to it. In this regard, there is a need to ensure that citizens have real access to justice in order to restore their violated rights. In addition, contemporary challenges in the rule of law state necessitate the need

to increase the level of public confidence in the judicial system, for the development of social welfare and legal culture (Bureau of National Statistics, 2024a).

Considering the conditions, it can be established that the protection of citizens' rights may not only take place in court. Conciliation procedures are aimed not only at restoring violated rights, but also at settling relations between the parties to the dispute (Abdrasulov *et al.*, 2024). This shows that an alternative approach to conflict resolution contributes to reducing the level of social tension and conflict in the country. Conciliation procedures not only affect the unloading of the judicial system, but also ensure the formation of a legal and social state (Balzer & Schneider, 2021). Taking into account the peculiarities of private law disputes, it should be pointed out that mediation and other forms of alternative dispute resolution are able to cover them qualitatively, satisfying the interests of both parties and renewing relations between them (Melenko, 2020). This indicates

Suggested Citation

Article's History: Received: 05.06.2024 Revised: 04.09.2024 Accepted: 25.09.2024

Yessenbekova, P. (2024). Results of implementation of conciliation procedures in civil proceedings. *Social & Legal Studios*, 7(3), 95-102. doi: 10.32518/sals3.2024.95.

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the development of legal consciousness of citizens, their desire to use the right to protect their rights to achieve an agreed and acceptable option for conflict resolution rather than punishment. Conciliation procedures make it possible to preserve or restore marital, kinship, labour, inheritance relations (Trinkūnienė & Trinkūnas, 2022).

In scientific doctrine, this issue is disclosed from different sides, which allows covering all its properties and specificity. In particular, M.I. Dyachuk (2021) concluded that mediation is the most effective way in the context of resolving private law disputes. She found that this form of conciliation procedure is based on the principles of: voluntariness, autonomy, equality, impartiality of the mediator, confidentiality, and independence. S.S. Tinistanova (2021) analysed the peculiarities of the implementation of the mediation procedure. She concluded that it can be used at any stage of the conflict, since the courts have the right to suspend proceedings for up to 1 month for the mediator to resolve the conflict. E.B. Ablava *et al.* (2023) defined the purpose of conciliation procedures as prompt and mutually beneficial conflict resolution, as well as reducing the level of conflict in the state. In conclusion, she pointed out the advantages of using such procedures in civil proceedings, namely the reduction of costs, refund of fees, preservation of personal and business reputation.

A.I. Karipova *et al.* (2022) analysed conciliation procedures in a broad sense, on the basis of which they found that they play one of the main roles in the context of future social and state development. They concluded that the development of skills in society to resolve disputes without recourse to forceful state authorities are prerequisites for increasing the level of civilized self-regulation. Despite the fact that G.M. Baimukhametova (2022) was engaged in the study of criminal proceedings, she proved that the conciliation procedure in general allows determining the underlying interests of the parties to a dispute, which may not be disclosed in the course of the classical judicial process. She believes that this approach ensures that it is possible to obtain full information about the conflict from both parties and therefore find mutually beneficial conditions for its resolution in any type of legal proceedings.

The aim of the article was to investigate the role of conciliation procedures in the Republic of Kazakhstan civil litigation system. Several tasks were formed in the work:

- to disclose the historical stages of formation and development of conciliation procedures in Kazakhstan;
- to characterise the expediency of using alternative ways of dispute resolution in the course of resolving private law conflicts;
- to consider statistical data on the use of conciliation procedures in Kazakhstan.

Materials and methods

The research addresses legal matters, which necessitated employing the formal-legal method to examine the relevant normative and legal acts related to conciliation procedures in Kazakhstan. This analysis includes the Decree of the President of Kazakhstan No. 949 “On the Concept of Legal Policy” (2002), Decree No. 858 “On the Concept of Legal Policy for 2010-2020” (2009), and Decree No. 1039 “On Measures to Improve Law Enforcement and the Judicial System” (2010). It also covers the Government Resolution No. 162 “On the Plan of Legislative Works for

2010” (2010), the Law No. 401-IV “On Mediation” (2011), and the President’s Address “Strategy Kazakhstan 2050: New Political Course” (2012). Additionally, it incorporates the Supreme Court Order No. 92 “Regulation on Judicial Mediation” (2014), the Civil Procedure Code (2015), the Law No. 155 “On Notaries” (1997), and the Law No. 176-VI “On Advocate Practice and Legal Assistance” (2018).

The functional analysis method was used in this paper to study the institute of conciliation procedures as an alternative method of dispute resolution. On its basis, the paper identified its peculiarities and types. In addition, the analysis was used to study the specifics of the implementation of conciliation procedures, in particular during civil proceedings. Accordingly, the influence of alternative ways of dispute resolution on private-law relations and conflicts was expressed. The method of synthesis in the article was applied to express the connection between the tasks of conciliation procedures and civil proceedings. The synthesis involved the study of the structure and directions of conciliation procedures. On its basis, the paper reflects the advantages of alternative ways of dispute resolution precisely in the context of ensuring civil proceedings. The method of comparison in the work is necessary for comparing conciliation procedures and classical judicial process as approaches for dispute resolution. On its basis, the advantages of realisation of the former over the latter were described. Also, the comparison was used in analysing different stages of formation of the institute of conciliation procedures in the Republic of Kazakhstan. This method is necessary for the study of different types of alternative approaches to dispute resolution, in particular, private law ones. The method of generalisation in the article was used to express the advantages and perspectives of conciliation procedures in the context of the future development of civil proceedings in Kazakhstan.

Results

The development of conceptual ideas to improve the national legal system of the Republic of Kazakhstan has led to the development and dissemination of various alternative methods of dispute resolution. According to the Concept of legal policy of the Republic of Kazakhstan (Decree of the President of the Republic of Kazakhstan No. 949, 2002) it was clearly stated that the above-mentioned methods of settlement of civil law disputes should be enshrined in the RK legislation. Since 2002, the vectors of future improvement of the RK legislation regulating civil proceedings through the introduction of alternative methods of dispute resolution to court proceedings have been identified. This idea continued to develop, resulting in the development of such mechanisms as mediation.

Already in the Concept of legal policy of the Republic of Kazakhstan for the period from 2010 to 2020 (Decree of the President No. 858, 2009) a list of measures aimed at the development of civil procedural legislation of the Republic of Kazakhstan was formed, which provided for the achievement of compromise in disputes of private law nature. This approach conditioned the organisation of conciliation procedures at the stage of preparing a case for trial, which influenced the spread of tools for extrajudicial protection of civil rights of citizens. Based on the above document, mediation, as well as other ways of settling civil law disputes belonged not only to extrajudicial, but also to judicial conciliation procedures. At that time, the key task for the legislator

was to make the listed measures mandatory, namely to give the parties the possibility of conciliation after the expiry of 7 working days from the date of acceptance of the civil action. This is how the issue of implementation of conciliation procedures was solved, exactly at the stage of preparation of a civil case for trial.

Further development of conciliation procedures in court proceedings was conditioned by the V Congress of Judges of Republic of Kazakhstan (Alimbekov, 2009), within the framework of which priority vectors of development of the judicial system and increasing the level of protection of citizens' rights were highlighted. One of them was the improvement and simplification of legal proceedings through the acquisition of the restorative character of Kazakhstani justice. Its essence was revealed in reducing the number of disputes through the use of alternative ways of their settlement, namely conciliation procedures. A year after this event, Decree of the President of the Republic of Kazakhstan No. 1039 (2010) was issued. Within the framework of this normative-legal act, it was envisaged to formulate draft laws to enshrine norms on conciliation, in particular mediation. The main purpose of such innovations was to enable the parties to settle private disputes on their own without involving the State or other actors. To implement the above decree, Resolution of the Government of the Republic of Kazakhstan No. 162 (2010) was drafted, which provided for the elaboration of a draft law on mediation and the corresponding amendment of other documents.

The state has provided citizens with the right to use alternative methods of dispute resolution at their discretion and to freely choose legal remedies. This shows that the spread and consolidation of conciliation procedures took into account the peculiarities of the constitutional and legal status of the individual and international standards in the field of ensuring human rights. As for today's context, they are characterized by a wide range of dispute resolution methods. Moreover, they cover various types of legal relations, both private and public, and can be used by non-state bodies as well as officials. According to the legislator's understanding of the category, "mediation", set out in the Law of the Republic of Kazakhstan No. 401-IV (2011), it should be understood as an algorithm for the settlement of disputes arising from different types of legal relations, carried out with the mandatory participation of a mediator who organizes and conducts negotiations between the parties to the dispute.

Subsequently, the socio-legal nature of the system of conciliation procedures has undergone development and significant changes. At the current stage of functioning of civil proceedings in Kazakhstan, it should be considered as a procedure for dispute resolution not only in the context as an alternative to court proceedings, but also within the judicial system itself. This approach is set out in Strategy Kazakhstan 2050 (2012), which provides for the development of the national legal system on the basis of conciliation procedures in the social sphere. It should be noted that after the introduction of Law of the Republic of Kazakhstan No. 401-IV (2011), rulemaking activities were continued to bring the norms of national legislation in line with international standards, to relieve the workload of judges, and to increase the level of business activity of citizens. For example, Order of the Chairman of the Supreme Court of the Republic of Kazakhstan No. 92 (2014) was approved, which established the status of judicial mediation as a conciliatory

procedure for resolving a dispute between the parties to civil proceedings with the assistance of a judge. This pilot project was aimed not only at the development of conciliation procedures, but also at reducing the judicial burden and costs. Accordingly, during the consideration of a case on the merits in the court of first instance and appeal, it was obligatory to ascertain whether the parties had expressed their will for judicial conciliation (Kubarieva, 2023). If there was such will, the judge discontinued the civil case and referred it to another judge directly for conciliation. In turn, the latter was guided by the norms of Law of the Republic of Kazakhstan No. 401-IV (2011), approved the amicable agreement and issued a ruling or judgement. This pilot project involved not only courts of general jurisdiction, but also courts of appeal in civil and administrative cases, totalling 59 courts. For the first time, mediation was used to resolve cases of divorce, alimony, and debt collection (Dyachuk, 2021).

Based on the successful results of the pilot project, the structure of the Civil Procedure Code of the Republic of Kazakhstan (2015) was amended by adding Chapter 16-1 "Settlement Agreement". In particular, for the first time, guidance was provided to the court on taking actions aimed at reconciling the parties and supporting them in resolving the dispute. In the Civil Procedure Code of the Republic of Kazakhstan (2015) there is Chapter 17 "Conciliation Procedures", which is responsible for fulfilment of one of the objectives of civil proceedings, namely to promote peaceful settlement of the dispute. Accordingly, a new method of dispute resolution was enshrined in the Kazakhstan, namely by means of participatory procedure. Such innovations were conditioned by international approaches to dispute settlement based on negotiations, consultations and pre-trial agreement of the parties. The current Civil Procedure Code of the Republic of Kazakhstan (2015) establishes the obligation of judges to provide a party with appropriate conditions for the settlement of a dispute between us precisely through amicable, mediative and participative agreement.

Separately, it should be noted that the adoption of the new Civil Procedure Code of the Republic of Kazakhstan (2015) has also influenced other legal acts, particularly in the context of the development of conciliation procedures. In particular, Article 17 of Law of the Republic of Kazakhstan No. 155 (1997) provided notaries with the possibility to conduct conciliation procedures. Conciliation through the implementation of participatory and notarial procedures was added to the list of alternative ways of court proceedings. Subsequently, the Law of the Republic of Kazakhstan No. 176-VI (2018) came into force, which also influenced the expansion of the system of persons empowered to organize conciliation procedures. Accordingly, the status of a legal adviser was equated with a lawyer in terms of conducting participatory procedures.

The next impetus for the development of mediation in RK civil proceedings was the improvement of pre-trial dispute resolution of certain types of conflicts through mediation. The list of disputes included those arising from matrimonial, family, inheritance, labour, housing, land and contractual legal relations. In the context of implementing this approach, specialised juvenile and economic, district and equivalent courts and mediators directly were invited (Ablaeva *et al.*, 2023). A characteristic feature of this innovation was its focus on a clearly defined list of categories of civil cases. It is worth noting separately the changes that

formed the basis of this innovation, namely the notification to the parties of the possibility to terminate the case through mediation and, accordingly, the conclusion of an agreement (Brummans *et al.*, 2022). In these letters the advantages of such an approach were defined, among which are: provision by the mediator of conditions for realisation of effective negotiation process and resolution of conflict relations between the parties; accelerated procedure of restoration of violated rights; availability of the right to change the subject or grounds of the claim, as well as to increase or decrease the amount of the claim; to receive the paid tax for filing the claim (Eiran, 2022).

In addition to the above-mentioned goals and objectives of civil proceedings, enshrined in the Civil Procedure Code of the Republic of Kazakhstan (2015), one of its main vectors is to ensure full and timely consideration of civil cases. Accordingly, for its realisation, the term of acceptance of a statement of claim was increased, namely from 5 to 10 working days (in the course of ensuring conciliation procedures). Thus, judges and parties to the dispute are given more time for peaceful settlement of relations, conclusion of an agreement. On 01.01.2022 the Civil Procedure Code of the Republic of Kazakhstan (2015) was significantly amended, namely it provides for the preparation of a pre-trial protocol. This approach is conditioned by the need to settle disputes out of court and into court, by means of the above document, specifying in it the actions of the parties, as well as the persons ensuring the provision, disclosure, and exchange of evidence, respectively playing an important role in the effective consideration and resolution of the dispute. The vesting of the parties with the possibility to draw up a pre-trial protocol was increased by the period of acceptance of the claim to 15 working days.

It can be established that citizens' confidence in conciliation procedures is growing every year, as evidenced by the positive dynamics in the increase of disputes resolved through various forms of conciliation (Hidayat *et al.*, 2024). According to recent statistical data, there has been a significant rise in the number of cases settled through mediation and other alternative dispute resolution (ADR) mechanisms in Kazakhstan. In 2023, the number of disputes resolved through mediation increased by approximately 15% compared to the previous year, reflecting a growing trust in these procedures. The total number of mediated cases rose from 1,200 in 2022 to 1,380 in 2023 (European Commission for the Efficiency of Justice, 2022). This upward trend indicates a broader acceptance and reliance on mediation as a viable means of dispute resolution.

Further, the proportion of cases resolved through mediation relative to the total number of civil cases has also seen a notable increase. In 2023, mediation accounted for about 8% of all civil disputes, up from 6% in 2022. This percentage reflects not only the growing popularity of mediation but also the expanding role of ADR in the Kazakhstani legal system. The positive dynamics are further supported by surveys indicating that a growing number of citizens perceive mediation as a more effective and efficient method compared to traditional court proceedings. According to a 2023 survey, approximately 72% of respondents reported satisfaction with the mediation process, highlighting its effectiveness in achieving fair and amicable resolutions. This represents a 10% increase in satisfaction rates from 2022 (Tukulov & Kassilgov, 2023).

Kazakhstan's civil proceedings continue to evolve, expanding the range of opportunities for citizens to resolve disputes pre-trial and out-of-court. The introduction of new legislative measures and the development of training programs for mediators have contributed to these improvements. These advancements reflect the principles of legal certainty and predictability in judicial acts, ensuring that the dispute resolution process is not only accessible but also reliable (Baimukhmetova *et al.*, 2023). The growth in mediation usage and the increasing trust in conciliation procedures underscore a shift towards more collaborative and less adversarial methods of resolving disputes (Harmon-Darrow *et al.*, 2020). This trend is expected to continue, driven by ongoing reforms and the broader acceptance of mediation as a legitimate and effective alternative to traditional litigation.

In recent years, Kazakhstan has expanded the scope of areas available for mediation, reflecting a broader acceptance of this alternative dispute resolution method. Initially, mediation was primarily utilised in family and labour disputes (Serikkyzy, 2023). However, recent legislative and judicial reforms have significantly broadened its applicability. Mediation is now increasingly employed in civil disputes, including those related to property and contractual issues, where previously litigation was the dominant approach (Horislavska, 2023). Additionally, mediation has found its place in the resolution of commercial disputes, particularly in cases involving business contracts and partnerships. This expansion into commercial mediation addresses the growing need for efficient, cost-effective solutions in the business sector (Karipova *et al.*, 2022; Kan, 2024). Moreover, mediation is now being integrated into administrative disputes, helping to resolve conflicts involving public administration and regulatory matters. The integration of mediation into these diverse areas demonstrates Kazakhstan's commitment to providing citizens with various means of dispute resolution, enhancing access to justice and promoting more amicable and efficient resolutions. This broadening of mediation's scope not only aligns with international best practices but also reflects a significant shift towards incorporating alternative dispute resolution mechanisms into the fabric of Kazakhstan's legal system (Kalshabayeva *et al.*, 2024).

The advancement of Kazakhstan's legal system has significantly integrated alternative dispute resolution methods, including mediation, into civil proceedings. Since the early 2000s, legislative reforms have emphasised the need for these methods to be incorporated into the national legal framework, with the Concept of Legal Policy outlining measures to facilitate extrajudicial and judicial conciliation. The focus has been on embedding conciliation procedures early in the litigation process, thereby enhancing access to dispute resolution and improving the efficiency of the judicial system. These developments reflect a broader commitment to making justice more accessible and restorative.

Discussion

In the legal doctrine, the issue of involvement of conciliation procedures in legal proceedings is debatable. This is explained by the existence of different positions of scientists on the expression of the advantages of alternative ways of dispute resolution, as well as the disclosure of the features of their implementation. In particular, U. Hameed *et al.* (2023) adhere to the approach about the expediency of forming a unified approach to the use of pre-trial and out-of-court

dispute resolution. They note the importance of developing their classical and hybrid forms, namely “med-arb” and “arb-med”. Such a conclusion is similar to the results of this work, as it is based on a unified approach to the implementation of a combined alternative dispute resolution procedure. U. Hameed *et al.* (2023) described the “mediation-arbitration” model, which accordingly starts with mediation and subsequently acquires the features and characteristics of arbitration. They concluded that it is appropriate to conduct mediation and arbitration simultaneously. It should be noted that such a position was described in this study because it pointed out the hybridity of alternative ways of dispute resolution through the involvement of a mediator and an observer. As a result, these actors act in the role of an arbitrator in order to form mutually acceptable conditions for the parties to the dispute. The researcher believes that this approach further expands the types of alternative dispute resolution. In this case, the joint position between the works is the expediency of imposing a ban on the mediator’s participation in the role of arbitrator after the dispute is submitted to arbitration.

In turn, F.A.H. Al-Khafaji (2021) found that alternative dispute resolution is most effective in the context of private procedural law. The author justified his position by the existence of the possibility for the parties to independently carry out the resolution of civil law disputes, without recourse to the court. This is in common with the results of this article, which stated that the process of out-of-court dispute resolution is based on the principles of private procedural law, and therefore can be categorised as a means of alternative dispute resolution. In his paper, the researcher focused on its three types, namely negotiation, mediation, arbitration. Thus, the categorization is the same as the one disclosed in this article. At that time, T.J. Stipanowich (2020) considers it appropriate to separate mediation in criminal and civil proceedings. Accordingly, in the former he considers it as reconciliation between the victim and justice, and in the latter reconciliation between the parties to the dispute. The obtained conclusion has common features with the concept of mediation characterized in this article. Also, similar is the approach to defining the constituent elements of the system of alternative ways of dispute resolution.

R. Gautam *et al.* (2021) in their study distinguish between alternative dispute resolution and conciliation procedures. In their opinion, the former embodies a system of legal tools and approaches that are necessary in the protection and restoration of violated rights, systematization of legal relations. They refer alternative ways of dispute resolution to the category of extrajudicial forms of settlement of private legal relations. Such a definition covers the concept characterized in this Article in the context of out-of-court legal forms of protection. At the same time, W. Warters (2023) investigated conciliation procedures as legal methods of forming mutually beneficial conditions for conflict resolution on the basis of private law foundations. Accordingly, the researchers noted that it is conciliation procedures, in their opinion, are the effective means for the organisation of civil proceedings, namely solving the problems with its overload and, accordingly, the duration of consideration of cases. Common between the works are the approaches to understanding conciliation procedures and alternative ways of dispute resolution, which have common features and are interrelated.

S. Cirillo and C. Cavallini (2023) considered the specificity of the scope of application of conciliation as an

effective approach in the dispute resolution process. They pointed out that the activity of the judge should embody not only the achievement of legality and the establishment of law, but also the elimination of contradictions in society through the harmonization of relations between citizens. The revealed position of the researchers influences the expansion of the role and status of the judge in the society, which coincides with the results of this paper. Accordingly, the conclusion of this article also indicated the expediency of using conciliation procedures not only for objective but also subjective reasons to ensure the stable development of the rule of law. Joint between the works is the fixation of the tasks of legal proceedings in the process of effective resolution of disputes and conflicts. In the opinion of researchers, solving the problem of overloading judges by increasing the number of employees is not an effective approach. The same position was expressed within the framework of this research work, which emphasised the expediency of influencing the consciousness and trust of citizens in conciliation procedures. Accordingly, common between the conclusions of both works is the expression of the proposal to implement legal education of citizens as likely parties to the dispute.

According to O. Okudan and M. Çevikbaş (2022), an important step in the context of the development of legal proceedings is the development of legal instruments for the alternative settlement of disputes arising from public legal relations. Thus, they propose to expand the functional scope of pre-trial conflict resolution tools by using them not only in private law disputes. The researchers point out that this approach has significant advantages, such as reducing the number of court cases, as well as increasing citizens’ trust in public authorities. This article has also focused on the positive impact of alternative case resolution, but in the context of private disputes. Nevertheless, a common idea is the implementation and improvement of conciliation procedures, in particular not only in the context of civil but also administrative proceedings. L.M.A.M. Magalhaes (2022) emphasised that the institution of conciliation of citizens with administrative bodies and their officials is an important component of the future development of mediation. The researcher drew attention to the high level of complexity of such a process, but believe that in the future its implementation may be effective. Common in the results obtained is the approach to expanding the types of conciliation procedures, as well as their integration into other types of legal proceedings, except for civil proceedings. This is explained by the idea and essence of alternative ways of dispute resolution, which are important for the regulation of all types of social relations (Ryskaliyev *et al.*, 2019).

A. Benedikt *et al.* (2020) in their work emphasised the advantages of using conciliation procedures in legal proceedings. The researchers are supporters of alternative ways of dispute resolution, so they consider this approach as an effective means to improve the judicial system. They noted that conciliation procedures imply a significant reduction in the time spent by the parties to a conflict on its resolution. It should be noted that this advantage has also been highlighted in this article. Another common feature is the direct resolution of the conflict, which reveals the essence of conciliation. In this case, it should be understood that this process conditions the resolution of the conflict situation and therefore can ensure the preservation of relations between the parties to the dispute. In addition, the researchers

noted about the return of the state duty, which one of the parties pays when applying to the court. The cost-effectiveness of conciliation procedures has also been pointed out in this article, and therefore it is jointly between the works. A similar position regarding the reciprocity of alternative means of dispute resolution, as they involve the formation of conditions favourable to both parties. Accordingly, there are many common features between the findings in both works that reveal the advantages of conciliation procedures, which indicates the appropriateness of their use, particularly in the context of civil litigation.

It can be established that, despite the differences in the approaches of the researchers, all of them adhere to the idea regarding the involvement of conciliation procedures in legal proceedings and their further development. The described approaches reveal the specifics of providing alternative dispute resolution, which implies the need to take into account the interests of both parties.

Conclusions

As a result of the conducted research, the peculiarities and chronology of formation of the institute of conciliation procedures in RK civilistics and legal proceedings were revealed. Accordingly, it was noted that such activities were primarily developed and disseminated in the context of an alternative to the judicial consideration of disputes. At the same time, it should be noted that they operated concurrently with court proceedings and concerned cases created out of civil legal relations. Subsequently, they were developed as a result of which they moved from the status of alternatives to court proceedings and accordingly began to spread within the RK judicial system itself. Accordingly, legislative activity was initiated in the RK, which concerned the consolidation of various types of conciliation procedures in order to give them legal status. A system of alternative pre-trial dispute resolution methods was formed and implemented on the basis of pilot projects. Based on the results of these activities, the effectiveness of certain types

of conciliation procedures and the expediency of their use in civil proceedings were determined.

It was found that special attention was paid to judicial mediation, which is used in the settlement of disputes between individuals. Accordingly, it has been established that hybrid forms of arbitration and mediation are used in resolving conflicts to which legal entities are parties. In the work, it was proved that the use of this institution contributes to the achievement of an effective result, which consists in satisfying the interests of both parties. In such a case, the dispute resolution process acquires a special significance for its participants, as they can, with the help of a mediator, choose the most promising way out of the conflict and preserve relations between each other. The Article separately noted the role of the mediator and the category of persons who may be considered mediators. Accordingly, amendments to various legal acts, in particular those regulating the activities of notaries and lawyers, were noted. Also, in the article, the provisions of the Civil Procedure Code of the Republic of Kazakhstan in different editions were considered to demonstrate the dynamics of development of the institute of conciliation procedures in civil proceedings.

The study of conciliation procedures, as well as the expression of their advantages, does not condition the mandatory settlement of a dispute exclusively in the pre-trial order. Accordingly, citizens of Kazakhstan are guaranteed the right to appeal to the court. However, the Article emphasised the special role of the judge in this case as something that should contribute to the peaceful settlement of the dispute between the parties. Future research should focus on the risks associated with the use of judicial mediation in civil proceedings.

Acknowledgments

None.

Conflict of interest

None.

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Результати впровадження процедур примирення у цивільному судочинстві

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Анотація. Перевантаженість судів, а також тривалість розгляду справ зумовлює необхідність застосування альтернативних способів вирішення спорів. Це свідчить про актуальність удосконалення примирних процедур у контексті цивільного судочинства в Казахстані. Метою роботи було дослідження особливостей забезпечення примирних процедур при вирішенні цивільно-правових спорів. У статті використано методи аналізу, синтезу, порівняння, дедукції, узагальнення, формально-юридичний. У результаті було розкрито історію становлення інституту мирного врегулювання спорів у цивільному судочинстві Республіки Казахстан. Охарактеризовано систему альтернативних способів врегулювання спорів, їх переваги та роль у зміцненні суспільних відносин у країні. У роботі встановлено, що врегулювання спорів на основі примирних процедур відповідає концептуальним підходам до розвитку національної правової системи Казахстану. Встановлено, що цивільне судочинство в Казахстані характеризується спрощенням і гуманізацією. В результаті застосування примирних процедур не тільки вдосконалюється діяльність судової системи, а й підвищується рівень правосвідомості казахстанців, їх довіри до судової влади. Таким чином, доведено соціально-правове значення неформальних і гнучких способів вирішення конфліктів, що є важливою складовою цивільного судочинства в Казахстані. У ході дослідження було вивчено зміст різних нормативно-правових актів на предмет відображення особливостей регулювання процедури врегулювання приватноправових спорів на основі примирних процедур. Особливу увагу було зосереджено на положеннях концептуальних та стратегічних документів, які закріплюють розвиток примирних процедур як одне з ключових завдань судочинства та національної правової системи. Результати дослідження можуть бути використані при розробці національної стратегії підвищення ролі судової медіації в цивільному судочинстві Казахстану.

Ключові слова: медіація; альтернативне вирішення спорів; переговори; колективна угода; приватноправовий конфлікт