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Jurisprudence

THE FUTURE OF DISCLOSURE AND ARTIFICIAL INTELLIGENCE IN CIVIL LITIGATION

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Abstract

This article explores the interaction between the institution of evidence disclosure and the application of artificial intelligence (AI) in civil proceedings. The author analyzes foreign and Kazakhstani practices, emphasizing the need for regulatory frameworks and the prospects for digital transformation of justice.

Keywords: civil procedure, evidence disclosure, artificial intelligence, digitalization, justice.

Introduction

In today's reality, Kazakhstan's civil justice system faces two major challenges: the reform of civil procedural legislation through the adoption of foreign legal institutions and the digitalization of a wide range of public services, including the judicial protection of the rights, freedoms, and legitimate interests of citizens and organizations. In this context, the newly introduced procedure of evidence disclosure and the potential integration of artificial intelligence (AI) in the administration of civil justice become especially relevant.

The practice of foreign countries, particularly in the Anglo-Saxon legal system, demonstrates that evidence disclosure (disclosure) is an essential element of adversarial proceedings.

In December 2021, the institution of evidence disclosure was partially introduced into Kazakhstan's civil procedure through the pre-trial protocol and the obligation to submit evidence at the stage of claim acceptance and case preparation. However, analysis shows that the procedure has not yet been fully developed despite some theoretical and regulatory efforts.

Simultaneously, AI is increasingly penetrating the legal field, including areas such as automated evidence processing, predictive analysis of court decisions, and even electronic judging. AI capabilities are being actively used to determine the relevance of evidence in preparation for disclosure procedures. These developments require deep scientific analysis, particularly regarding legal safeguards, the admissibility of evidence, and adherence to principles of fairness.

Disclosure of Evidence in Civil Procedure

Evidence disclosure entails the obligation of parties to exchange the evidence they possess that is relevant to the case before the trial begins. In common law systems, this institution has developed as an integral part of the adversarial process, ensuring good faith and equality of arms.

Kazakhstan attempted to implement disclosure three years ago as part of judicial reforms. Although borrowing elements from foreign legal systems often sparks debate, Kazakhstan is not unique among civil law countries in adapting disclosure procedures. Today, evidence disclosure is increasingly adopted by civil law countries to enhance adversarial proceedings and party equality. For example, the obligation to submit evidence exclusively at the preparation stage is enshrined in the civil procedural laws of many civil law jurisdictions, while the right to demand evidence disclosure before filing a claim has been adaptively established in Germany and Japan.

The significance of evidence disclosure is further confirmed by the ALI/UNIDROIT Principles of Transnational Civil Procedure [1], which establish the right of parties and the court to access information. These principles aim to unify procedural standards and guide civil procedure reforms.

In England, disclosure is a mandatory stage regulated by the Civil Procedure Rules (Part 31) [2]. In the United States, the discovery process involves written requests for evidence, witness depositions, and document collection. In some EU countries, evidence presentation regulation shows features of English disclosure, adapting to the characteristics of continental law; for example, Spain is considering implementing disclosure to enhance adversariality [3].

Artificial Intelligence in Civil Justice

AI is already actively used in the judicial systems of various countries. Machine learning algorithms are applied to analyze legal documents, predict court decisions, and automatically draft legal opinions.

In the context of evidence disclosure, AI offers the following capabilities:

- Automatic data filtering;
- Determining the legal relevance of evidence;
- Detecting inconsistencies.

AI enables rapid analysis of large volumes of documents, evaluation of the relevance of submitted evidence, and identification of inconsistencies or contradictions. Existing AI solutions such as ROSS Intelligence analyze legal precedents, while Predictice predicts case outcomes based on court decisions.

In terms of disclosure, AI can structure and analyze documents, identify key arguments, and predict their significance for litigation [4]. Natural Language Processing (NLP) algorithms assist in classifying evidence by automatically detecting important elements in legal texts [5].

However, the use of AI in disclosure procedures also carries certain risks, potentially leading to problematic issues and negative consequences. First and foremost, there is a need for legislative regulation of AI applications. Effective legal regulation would help mitigate the risk of data breaches during document processing by AI systems.

It is also important to consider the possibility of technical errors and algorithmic failures. For instance, representatives of parties in the United Kingdom use the electronic platform Epiq [5], which integrates AI algorithms to accelerate the search for relevant documents. Technologies such as thematic analysis, predictive coding, automatic categorization, and key data extraction are utilized.

Epiq complies with international data security standards like ISO 27001 and is used by legal firms to manage evidence disclosure in complex commercial disputes, antitrust cases, internal audits, and international arbitrations. Thus, procedural efficiency and cost-effectiveness are achieved for clients.

At present, the implementation of evidence disclosure in Kazakhstan has not produced the expected results of civil procedure reformers. Nevertheless, it is undeniable that disclosure is a powerful procedural tool requiring a more detailed and adaptive approach for effective integration, considering established legal and cultural traditions.

Conclusion

Evidence disclosure plays a key role in ensuring fairness in civil procedure. Integrating artificial intelligence into this institution can enhance judicial efficiency, reduce court workloads, and minimize errors in legal practice. However, successful implementation demands legislative reforms, the introduction of new technologies, and the development of control mechanisms over AI activities.

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