

ABSTRACT

**Dissertation for the degree of Doctor of Philosophy (PhD)
in the educational program “8D04203 – Jurisprudence”
by Saule Beisenbayevna Akhmetova
on the topic “State-legal protection of personal data
in the Republic of Kazakhstan”**

Relevance of the Research Topic. The topic is relevant due to the elevation of personal data protection to the constitutional level in accordance with the 2026 amendments (Article 21 of the Constitution of the Republic of Kazakhstan), which enshrines privacy as the highest value and priority of state policy. In the context of total digitalisation and the introduction of artificial intelligence technologies, unprecedented risks of illegal collection and processing of personal information arise, requiring an adequate legal response.

Despite the existence of a legislative framework, current regulations are characterised by declaratory norms, a lack of clarity in their terms, and non-compliance with international data protection standards. The problem is exacerbated by the population's low digital literacy and the absence of an effective oversight mechanism. The need for a comprehensive reform of the conceptual apparatus, the consolidation of technological principles of protection (Privacy by Design, Privacy by Default), and the creation of an independent authorised body determine the theoretical and practical significance of the dissertation research for ensuring personal security in the modern digital environment.

The purpose of this dissertation is to study the legal framework for ensuring the protection of personal data in the Republic of Kazakhstan, the regulatory consolidation of key concepts and specific principles of personal data protection, the regulation and activities of government bodies in the field of personal data protection in Kazakhstan and Europe, and the development of recommendations for improving legislation and government regulation in the field of personal data protection.

Objectives:

- To define the content of the right to personal integrity, respect for privacy, and the place of personal data in the right to personal integrity enshrined in the Constitution of the Republic of Kazakhstan;
- To substantiate the author's concept and classification of personal data and compare their regulatory consolidation in Kazakh and European legislation;
- To systematise the principles of personal data protection and evaluate the regulatory consolidation, role, and implementation of these principles in Kazakh and European legislation;
- To summarise the practice of using personal data, regulating the collection, processing, and protection of personal data in Kazakh and European legislation.

- Analyse the rights of personal data subjects and the corresponding responsibilities of controllers, processors, and third parties, and compare Kazakh and European regulations;

- Assess the activities of Kazakhstani government agencies to ensure the right to personal data protection, compare the powers and activities of Kazakh and European supervisory authorities for personal data protection, and develop recommendations for legal practice;

- Systematise existing problems and obstacles in the field of personal data protection and develop recommendations for their resolution, considering international experience.

The scientific novelty lies in the first comprehensive study in Kazakhstani legal scholarship on personal data protection issues within the context of state and law theory and the essence of the fundamental right to privacy. The work fills a significant theoretical gap by elucidating the content of categories such as personal autonomy, control, and the boundaries of the private sphere, which have not previously been considered in Kazakhstani scholarship in the context of accelerated digitalisation and the use of artificial intelligence technologies. The study analyses the evolution of national legislation, including the latest provisions of the Digital Code of the Republic of Kazakhstan and the Law ‘On Artificial Intelligence’. It reveals the lack of a solid legal foundation for current principles and terminology. A special focus is placed on a comparative analysis of Kazakhstani regulation with European experience, including the GDPR and the case law of the ECHR, which substantiates the need to adopt positive international practices and harmonise domestic regulations. Furthermore, the novelty lies in the development of conceptual approaches to reforming the system of government agencies, primarily through a detailed justification of the role and competence of an independent authorised body. Taken together, this allowed the author to formulate fundamental proposals for improving legislation to create effective mechanisms for protecting individual rights in the face of unprecedented use of personal information in the digital environment.

The dissertation's findings are as follows:

- The need to transform the definition of ‘personal data’ through its implicit connection to the category of ‘privacy’ and the implementation of a broad adaptive approach, including information for indirect personal identification and the presumption of privacy ‘by default’ for all data categories, is substantiated.

- The feasibility of moving from a property-based regulatory model to a functional approach based on the distribution of ‘controller’ and ‘processor’ roles, with detailed legal regulation of intrusive processes such as profiling and pseudonymisation, is demonstrated.

- Based on the identified declarative nature of current regulations, the consolidation of a system of seven imperative principles of direct action is argued for, serving as an adaptive regulatory mechanism in the context of rapid technological evolution.

- A mechanism for transforming the rights of subjects into a system of specific powers, supported by corresponding obligations and the legislative implementation of Privacy by Design and Privacy by Default standards in information system architecture, is developed.

- A concept for reforming the public administration system has been formulated through the creation of an independent authorised body with an expert staff, whose activities have been reoriented from a reactive and punitive model to preventive and advisory support for digital market participants.

- Comprehensive proposals for improving legislation in the area of personal data protection have been formulated.

Key provisions submitted for defence:

1. The identified ambiguity of the concept of "personal data" requires the unification of legislation, taking into account the interdependence of personal information and privacy. It is proposed that the Law of the Republic of Kazakhstan "On Personal Data and Their Protection" define specific criteria for data identification and their typology depending on the degree of "value" and "materiality" of a specific element or identifier of personal information, its relationship with socio-economic rights, and the risks of damage to individual rights and freedoms.

2. It is proposed to amend the Law of the Republic of Kazakhstan "On Personal Data and Their Protection" with amendments concerning the key terms regulating the use of personal data, while also specifying the types of operations with personal data. It is concluded that "profiling" can be recognised as an independent type of data processing. At the same time, we believe it is necessary to strengthen legal regulation of targeted advertising and communications, given their highly intrusive nature.

3. In the state and legal regulation of personal data protection, it is necessary to take into account the particular importance of special principles for the protection of personal data, oriented towards the European model, the GDPR. It is proposed to elevate these principles to the status of universal regulators to address gaps and ensure uniform enforcement.

4. It is proposed to expand and clarify the rights of personal data subjects, establishing corresponding responsibilities for all parties involved in their processing. It is proposed to establish obligations to provide information, explain the purposes and consequences of processing, and provide accessible mechanisms for protecting rights, including confidentiality by design and by default.

5. Institutional reform of the authorised body for personal data protection is necessary, granting it the status of an independent institution. It is also recommended to strengthen its competencies and coordinating role, and define mechanisms for interaction with government agencies to improve the effectiveness of monitoring and protecting the rights of data subjects.

Theoretical and Practical Significance of the Study. The theoretical significance of the study lies in expanding the doctrinal understanding of the boundaries of constitutional protection of privacy and personal data in the digital

age, conceptualising the right to information self-determination, and justifying the transition to a functional model for distributing the roles of subjects to improve the effectiveness of personal data protection.

The practical significance of the study lies in developing proposals for legislative amendments and institutional reforms to the authorised body, aimed at harmonising Kazakhstani law with international data protection standards. Furthermore, the study allows for the development of a course on "Legal Foundations of Personal Data Protection" aimed at increasing the level of digital and legal literacy among all participants in the information flow, as well as the public and government agencies, thereby minimising the risks of unlawful information processing and increasing the effectiveness of preventive measures in this area.

Validation of the research results. The theoretical principles and conclusions of the study were presented and discussed at department meetings, scientific seminars, and scientific conferences.

The results of the study were reflected in thirteen scientific publications. Publication includes one article published in the journal *Social and Legal Studios*, which is included in the Scopus database, one article published in the *Bulletin of KazNU. Legal Series* journal and two articles published in the *Bulletin of the L.N. Gumilyov Eurasian National University. Law Series* journal:

1. Akhmetova S.B., Ibraeva A.S., Baimakhanova D.M., Baikenjeev A.S., Tursynkulova D.A. 'Principles of Personal Data Protection: A Comparative Analysis of National and Foreign Legislation' // *Bulletin of KazNU. Legal Series*. 2023. - 106(2) - pp. 33-46. DOI: <https://doi.org/10.26577/JAPJ.2023.v106.i2.04>.

2. Akhmetova.S.B., Tursynkulova D.A., Ibrayev N.S. 'Powers of the Personal Data Protection Authority in Europe and Kazakhstan: comparative analysis, recommendations for improving the activities of the Kazakhstani Personal Data Protection Authority' // *Bulletin of the L.N. Gumilyov Eurasian National University, Law Series*. - 2024. - No. 3 (148) - P. 198-211. DOI: <https://doi.org/10.32523/2616-6844-2024-148-3-201-214> .

3. Akhmetova S.B., Ibrayeva A.S., Kassymzhanova A.A. 'Modern development of artificial intelligence technologies and problems of legal regulation of profiling and targeted advertising in Kazakhstan' // *Bulletin of the L.N. Gumilyov Eurasian National University, Law Series*. – 2025. - No. 1 (150) – P. 77–97. DOI: <https://doi.org/10.32523/2616-6844-2025-150-1-77-97> .

4. Akhmetova S., Ibrayeva A., Baimakhanova D., Tursynkulova D., Hoffmann T. 'Legal regulation of profiling and targeted advertising in Kazakhstan through the lens of European experience' // *Social and Legal Studios*. – 2025. – 8 (1). – P. 33–45. DOI: <https://doi.org/10.32518/sals1.2025.33>.

In addition, nine articles were written on the topic of the dissertation, reflecting the research questions and published in international conference proceedings and other publications, including:

1. Akhmetova S.B., Ibrayeva A.S. Problems of Personal Data Protection in Draft Laws of the Republic of Kazakhstan on Artificial Intelligence. Collection of

Код поля изменен

Materials of the International Scientific Conference of Students and Young Scientists 'Farabi World', April 4, 2025. - Almaty: Kazakh University. - Pp. 64-68

2. S. B. Akhmetova, A. S. Ibrayeva. The European Data Protection Model as a Global Privacy Standard. *Farabi Journal of Social Sciences* Vol. 9 No. 1 (2023), Pp. 79-86. DOI: <https://doi.org/10.26577/FJSS.2023.v9.i1.09>.

3. Ibrayeva A.S., Akhmetova S.B. The Role of the State in Ensuring the Right to Privacy. Analysis of the Judicial Practice of the ECHR, Proceedings of the International Scientific and Practical Conference 'The Constitution of the Republic of Kazakhstan - the Legal Basis for the Development of the New Kazakhstan', August 25, 2023. - Almaty: Kazakh University, 2023. - 225 pages, ISBN 978-601-04-6552-7. - Pp. 39-48.