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Some Problems of Protecting Employees' Personal Data in the Labour Law of the Republic of Kazakhstan

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Abstract. The current level of development of the information community and the deep-rooted and recognized presence of digitalization in the labour sphere have significantly worsened employees' legal situation regarding personal data protection. The legislator does not always keep up with the changes in social and economic relations. The purpose of this study is to reveal defects and gaps in the current norms of labour law in our country with reference to the processing and protection of personal data, as well as to search for legal norms that can eliminate and cover them. The central idea is that the 2013 Law on Personal Data and Their Protection does not account for the specifics of employment relations, while the Labour Code of the Republic of Kazakhstan (LC RK) is confined to a single blanket provision. The scientific and practical relevance lies in the fact that the current LC RK, unlike its predecessor, contains no dedicated chapter on the employee's personal data. The methodology comprises general scientific methods together with the comparative legal method, the method of legal modelling, the systemic method and doctrinal analysis; the EU General Data Protection Regulation, Directive 95/46/EC, the ILO code of practice and foreign scholarship on algorithmic management served as benchmarks, alongside the current digital legislation of the Republic of Kazakhstan on personal data, cybersecurity and artificial intelligence. The main results are the substantiation of the need for a separate chapter in the LC RK and the drafting of articles establishing processing principles, employer obligations, the rights of employees and their representatives, the procedure for anonymisation and destruction of data, and the right of appeal. The study brings tested international standards to bear on Kazakhstan labour law at a moment when administrative sanctions in this field have been significantly raised. Its findings are directed at the legislature and at employers developing internal workplace policies.

Keywords: processing, personal data, protection, monitoring, employee, employment relations.

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Қазақстан Республикасының еңбек құқығында жұмыскерлердің дербес деректерін қорғаудың кейбір мәселелері

Аңдатпа. Ақпараттық қоғам дамуының қазіргі деңгейі, еңбек саласында ақпараттық-коммуникациялық және цифрлық технологияларды орныққан әрі жалпыға танылған түрде пайдалану жұмыскерлердің дербес деректерін қорғау мәселелеріндегі құқықтық жағдайын едәуір күрделендірді. Негізгі идея 2013 жылғы «Дербес деректер және оларды қорғау туралы» Қазақстан Республикасының Заңы еңбек қатынастарының ерекшелігін ескермейді, ал Қазақстан Республикасының Еңбек кодексі (ҚР ЕК) бір ғана жалпы ережемен шектеледі деген тұжырымға негізделеді. Зерттеудің ғылыми және практикалық мақсаты – жұмыскерлердің дербес деректерін қорғауға қатысты құқықтық кепілдіктерді жетілдіру жөнінде ұсыныстар әзірлеу. Зерттеу әдіснамасы жалпы ғылыми әдістерді, сондай-ақ салыстырмалы-құқықтық әдісті, құқықтық модельдеу әдісін, жүйелік әдісті және доктриналық талдауды қамтиды. Бағдар ретінде Қазақстан Республикасының дербес деректер, киберқауіпсіздік және жасанды интеллект саласындағы қолданыстағы цифрлық заңнамасымен қатар ЕО-ның Деректерді қорғау жөніндегі жалпы регламенті, 95/46/ЕС Директивасы, ХЕҰ-ның Практикалық кодексі және алгоритмдік басқару саласындағы шетелдік зерттеулер пайдаланылды. Зерттеудің негізгі нәтижелері ҚР ЕК-ге жеке тарау енгізу қажеттілігін негіздеу және деректерді өңдеу қағидаттарын, жұмыс берушінің міндеттерін, жұмыскерлер мен олардың өкілдерінің құқықтарын, деректерді иесіздендіру және жою тәртібін, сондай-ақ шағым жасау құқығын белгілейтін ережелерді әзірлеу болып табылады. Зерттеу осы саладағы әкімшілік санкциялардың едәуір қатаңдатылуы жағдайында халықаралық стандарттарды Қазақстанның еңбек заңнамасында қолдануға бағытталған. Зерттеу нәтижелері еңбек қатынастары саласындағы ішкі саясатты әзірлейтін заң шығарушы органдар мен жұмыс берушілерге арналған.

Түйін сөздер: өңдеу, дербес деректер, қорғау, мониторинг, жұмыскер, еңбек қатынастары.

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Некоторые проблемы защиты персональных данных работников в трудовом праве Республики Казахстан

Аннотация. Развитие информационного общества и внедрение цифровых технологий в сферу труда обострили проблему защиты персональных данных работников, чьё

положение по отношению к работодателю носит зависимый характер. Цель статьи выявить пробелы правового регулирования в действиях работодателя по обработке и защите персональных данных в трудовых отношениях Республики Казахстан и предложить путь их восполнения. Основная идея состоит в том, что Закон Республики Казахстан «О персональных данных и их защите» не учитывает специфику трудовых отношений и не способен напрямую урегулировать их, тогда как Трудовой кодекс Республики Казахстан ограничивается единственной бланкетной нормой. Разработка проектов правовых нормативных актов, которые устанавливают специальные гарантии для защиты персональных данных работников, имеют научную и практическую значимость. Методология включает общенаучные методы, а также сравнительно-правовой, формально-юридический, системно-структурный методы, метод правового моделирования и доктринальный анализ. Ориентирами послужили Общий регламент ЕС о защите данных, Директива 95/46/ЕС, Свод практических правил Международной организации труда, зарубежная доктрина алгоритмического управления, а также действующее цифровое законодательство Республики Казахстан о персональных данных, кибербезопасности и искусственном интеллекте. Основные результаты обоснование необходимости введения в Трудовой кодекс отдельной главы и разработка проектов статей, закрепляющих принципы обработки, обязанности работодателя, права работников и их представителей, порядок обезличивания и уничтожения данных, а также право на обжалование. Ценность исследования заключается в системном переносе апробированных международных стандартов на национальную почву с учётом ужесточения административной ответственности с 2025 года. Практическое значение результатов заключается в том, что они адресованы законодателю и работодателям для использования при разработке локальных актов.

Ключевые слова: обработка, персональные данные, защита, мониторинг, работник, трудовые отношения.

Introduction

The contemporary digitalization of employment relations has transformed employees' personal data (hereinafter – EPD or PD) into an independent object of legal protection. As a person's identity is increasingly identified by a combination of individual characteristics, the risk of illegal use of such information grows, which ranges from theft to transfer to third parties for purposes unrelated to employment. At the level of constitutional rights, paragraph 1 of Article 21 of the Constitution of the Republic of Kazakhstan (hereinafter – the Constitution of the RK) guarantees everyone the right to the protection of their personal data, including through digital technologies. [1]. These guarantees are further developed in the Law of the Republic of Kazakhstan on Personal Data and Their Protection dated May 21, 2013, No. 94-V (hereinafter – the Law on PD), which details the conditions for data collection and processing, requirements for the subject's consent, and the obligation to store data in databases in Kazakhstan [2].

The problematic situation lies in the fact that the Law on PD is general in nature and does not account for the specificities of employment relations - primarily the factual inequality of the parties and the employee's organizational subordination. The reasons for the appearance of shortcomings and flaws are mostly the insufficiently substantiated borrowing of legal structures

from information law for labour law, where it is necessary to take into account its features and codified principles. It is necessary to state the lack of exhaustive legal certainty and declarative norms of the current Labour Code of the Republic of Kazakhstan (hereinafter referred to as the LC RK) regarding the collection, processing and protection of PD (subparagraph 24) of paragraph 2 of Article 23 and subparagraph 24 of paragraph 1 of Article 22) [3]. All the necessary elements of the legal norm on the stages of the 'life cycle' of an employee's EPD, including employees with whom the employment relationship has been terminated or job seekers, are missing in the LC RK. As a result, the employer possesses a wide range of information stored in various formats (hard and soft copies, video, biometrics), while the employer's right to dispose of such information is not subject to detailed legal regulation.

The social relations that arise when processing and protecting EPD are the object of research. The subject of the study is the legal norms of national and foreign legislation governing these relations, as well as their law enforcement practice. The purpose of the study is defined through the identification of gaps and defects of legal norms in the current legislation and the substantive proposal of draft legal norms to eliminate them. The goal is achieved through solving such tasks as: clarifying the conceptual framework; comparison of the legislation of Kazakhstan with international standards; analysis of the norms on administrative responsibility and the practice of their application; development of draft articles for the LC RK. The thesis of the study is that an independent chapter on the protection of an EPD in the LC RK is required due to the specifics of labour relations, and a reference to the Law on PD does not fully take into account the dependent position of the employee and the specifics of the processing of his/her data by the employer.

Literature review

When referring to the international level of legal regulation of the protection of PD of individuals and employees in particular, first of all it is necessary to be guided by the Code of Practice of the International Labour Organization on the Protection of Personal Data of Employees (1997) (hereinafter – the ILO Code of Practice) [5], Directive 95/46/EC, subsequently replaced by the EU General Data Protection Regulation (GDPR) [6], which defined the basic legal framework for a wide range of subjects in this area.

Digital employment risks involving algorithmic management processes, solutions based on process automation, and employee control are currently the main areas of foreign legal research. In the framework of this study, the following scientists should be identified: Aloisi, A. and De Stefano, V., who showed that when the legal limits are uncertain, total algorithmic control begins to operate in absolute control mode, where employees' rights to privacy are violated [7]; in his research, J. Adams-Prassl provided an exhaustive evidence base regarding the inadmissibility of personnel decisions based solely on automated processing [8]; the interrelated legal regulation of algorithmic management and PD protection, as well as the prevention of discrimination and proper protection of the rights of employee representatives were also considered in subsequent works by A. Aloisi [9]; the legal risks of PD processing methods used by employers in the workplace, such as discrimination and unrestricted surveillance, are reviewed by researchers P.T. Kim and I. Ajunwa with co-authors [10, 11]. It is important to note that this problem will also be solved in the Kazakh doctrine in various aspects, so Omurchiev E.M. and Saudabayev D.E., on the basis of judicial practice, analyze the definition of personal data, directly the order of access to data with limited access, and the risks of the employer [12]. F.M. Syrlybayeva investigates the protection of information rights of workers in conditions of digitalization, notes the absence of

provisions on personal data in the Labor Code [13]. Z.S. Gelmanova and co-authors consider the ethical and organizational aspects of protecting workers' data in HR management when using AI, cloud solutions, and big data [14]. Based on the results of studies of the above works, the article proposes a systemic model of regulation of labor law, taking into account the dependent position of the worker, ILO and EU standards, as well as current digital legislation.

Materials and Methods

The research material comprises current national normative legal acts: the Constitution of the RK, the Law on PD, the Digital Code of the RK [15], Law of the RK On Cybersecurity [16], the Law of the RK On Artificial Intelligence (hereinafter – the Law on AI) [17], the LC RK, the Code of the Republic of Kazakhstan on Administrative Offenses (hereinafter – the Code of Administrative Offenses of the RK) [18], and the Criminal Code of the Republic of Kazakhstan (hereinafter – the Criminal Code of the RK) [19], as well as the repealed 2007 Labour Code, No. 251-III [20], which was used for historical-legal comparison. The foreign material utilized includes acts of the European Union (hereinafter – the EU), documents of the International Labour Organization (hereinafter – the ILO), and the works of foreign researchers on issues of data protection and algorithmic management in the sphere of labour.

The research was completed in several stages: conceptual analysis; comparative legal comparison of national and foreign regulation; analysis of administrative liability and practice; and the formulation of draft articles. General scientific methods were employed during the logical processing of information to obtain reliable results. The comparative legal method was applied to compare Kazakhstani legislation with EU law and ILO standards, while doctrinal analysis was used to examine foreign research on algorithmic management and the protection of employee data. The provisions of laws on PD, cybersecurity, and artificial intelligence were interpreted using the formal-legal method and the method of interpretation of legal norms. The proposed draft articles are the result of legal modeling, completed with a review of international standards and the current digital legislation of the Republic of Kazakhstan. The system-structural method allowed for the determination of the location of the proposed chapter within the system of the Labour Code of the Republic of Kazakhstan, while the method of legal forecasting made it possible to evaluate the legal consequences of introducing the proposed norms for both employees and employers.

Results and Discussion

Concept and Subject Composition. In accordance with the current Law on PD (subparagraph 2) of Article 1, personal data includes information supplemented by one or more identifiers and relating to an identified or identifiable person. The amendments, which came into force on August 25, 2026, introduced identifiers into the legislative concept of personal data. They did not establish a new classification of personal data. Article 6 of the Law on PD previously contained regulations on the classification of personal data into public and restricted access.

The Law on PD defines the subject of PD exclusively as a natural person. Details and other information concerning a legal entity are not covered by the concept of PD, as a company name is protected under an independent legal regime, and classifying legal entities as subjects of PD would create excessive restrictions on commercial turnover and the cross-border exchange of information.

For the purposes of labour law, a broad understanding of the term 'employee' is fundamentally important. Despite the existence of the concept of 'employee' in Kazakhstan legislation, for the purposes of research, it is advisable to be guided by the concept established by the ILO Code of Practice, where employees include not only persons in existing employment relationships, but also employees with whom employment contracts have been terminated, as well as job seekers [4]. In our opinion, such an expanded approach to subjects of labour relations can be considered justified in view of the operations (collection, processing, storage) of the employer with the PD received, regardless of the existence of an employment relationship, as a guarantee of PD protection. Kazakhstan legislation does not define an imperatively fixed closed list of information that relates to the PD of an individual with the status of an employee; in this regard, it is necessary to be guided by the legally established criterion on the possibility of identifying the subject of PD on the basis of the list of PD identifiers (Article 6 of the Law on PD).

Article 6 of the Law on PD classifies PD into publicly available and restricted access: for access to the former, the consent of the subject is not required or they are not classified as confidential by law; the latter requires the consent of the subject, and they are subject to special protection.

At the same time, the use of biometric technologies in labour relations in view of access control, working hours, as well as information about the health status of the employee and his/her family members to implement social guarantees, benefits and compensations form a significant database of PD of limited access for the employer, which implies increased requirements for their processing and storage, and also requires specific consent and cannot be collected by default due to the existence of an employment relationship or a job application.

The absence of a set of special rules of law on the protection of PD of an employee in the LC RK and the presence of a multi-level referential nature of legal regulation reduce the level of protection of employee rights and guarantees.

International Standards of Legal Protection of PD. The principles and legal framework for the operation and protection of PD in Kazakhstan legislation are generally consistent with international practice, while the cross-border nature of the digital environment significantly affects their effectiveness and sufficiency. Thus, at the level of legislation in one country, it is impossible to unilaterally establish standards for the cross-border transfer of PD. This situation necessitates moving towards the harmonization of national standards with international ones.

The Law on PD, Article 5 and the corresponding Article 5 of GDPR [6] establish similar legal grounds for the collection and processing of PD, according to which processing requires legality, good faith, the presence of pre-defined clear goals, and an exhaustive amount of data. At the same time, the data undergoing processing must be reliable, up-to-date, and the storage period must not exceed the period for achieving the purpose of their processing, with mandatory conditions for maintaining the integrity of PD and confidentiality.

The issue of the amount of PD to be processed in relation to the sphere of work is disclosed in detail in the ILO Code of Practice [4], which, through the principle of minimization, introduced a requirement to limit the collection of information related to the duties and prohibit their use for another purpose, which was not indicated at the initial request for PD from an employee, if there is no separate consent for this. The implementation of this principle in the field of labour relations would be quite reasonable, as it takes into account their specifics.

The legal framework for the regulation of PD in the EU has passed a certain stage of development, from Directive 95/46/EC [5] to GDPR [6], which entered into force on May 25, 2018. The uniform requirements for the processing of PD established in the GDPR implement

the guarantees of the rights to respect for privacy and the rights to PD protection set by Articles 7 and 8 of the Charter of Fundamental Rights of the European Union [21]. The Republic of Kazakhstan is not a member of the EU, and therefore is not related to the above-mentioned EU acts. However, it is advisable to take into account the approach of Article 6 of the GDPR [6] when improving national legislation on the regulation of EDP protection. If the Kazakhstan legislation is based on the consent of the subject and special cases where consent is not required, the GDPR is based on a system of six independent legal bases, where the recognition of an employment contract as an independent basis for processing PD is of particular importance for the Kazakhstan labour legislation. This approach will make it possible to distinguish between information that is objectively required in practice for the employer to implement an employment relationship, and information that requires the employee's separate consent.

Two interrelated grounds for processing PD are of particular importance for labour relations: the fulfillment of an employment contract and compliance with the obligations of the employer, since on these legal grounds PD necessary for calculating wages, providing social guarantees, ensuring health and safety, and achieving other goals of labour legislation, labour and collective agreements are processed. At the same time, it is necessary to observe the legal basis for the amount of the processed information and its proportionality with the stated purpose of processing, as well as to ensure its confidentiality. Taking into account the legal grounds of Kazakhstan legislation on PD protection, the employee's consent should not be overlooked. By its legal nature, the consent of the subject of legal relations is considered as a voluntary expression of will; however, in an employment relationship, the consent of an employee as a subject of PD is not always such. This is influenced by the organizational and economic prevailing position of the employer relative to the employee.

Cybersecurity and Artificial Intelligence. Public relations related to the digital environment, including processing and protection of personal data, are regulated by the Digital Code of the Republic of Kazakhstan [15]. Requirements for cybersecurity are also established by the Law of the Republic of Kazakhstan on Cybersecurity [16]. At the same time, the Law on PD provides that the specifics of data processing in digital resources are determined by legislation on digitalization, taking into account its provisions [2]. Thus, a cohesive legal framework for PD protection and digitalization has already been established in national law, which should be supplemented by special labour law regulations to account for the specifics of processing EPD. The Law on Artificial Intelligence, which entered into force on January 18, 2026, contributes to the development of legal regulation of the creation and application of artificial intelligence systems (hereinafter – AI). It is worth noting that Kazakhstan has become the second jurisdiction after the EU with an independent law on artificial intelligence. According to the Law of the Republic of Kazakhstan on Artificial Intelligence, AI systems are subject to requirements of transparency and explanation of how they work, with a priority for human well-being and data protection. The law establishes the right to protection from automated discrimination and review of decisions made using AI, and also prohibits the use of AI systems that violate the norms of legislation on PD protection [17].

These provisions of the AI legislation are of particular importance in the field of labour relations. Recruitment, performance evaluation, and monitoring are increasingly reliant on automated tools; as foreign studies demonstrate, such tools are capable of reproducing latent discrimination and producing decisions that are opaque to the employee [8, 9, 10]. Therefore, the principle that decisions affecting an employee cannot be based solely on automated processing

of their data is finding normative grounding in national legislation through the establishment of the right to protection against automated discrimination and the requirement for the explainability of decisions made using AI systems. Biometric monitoring and emotion recognition systems in the workplace fall under the set prohibitions and consent requirements. Finally, accompanying amendments on AI and digitalization have limited the duration of consent for processing to the period necessary to achieve the designated purposes and have confirmed the subject's right to withdraw consent, which is directly applicable to employee consent. However, the legislation still lacks targeted norms that transfer these general principles into the sphere of employment relations.

Consent and Cross-Border Transfer. Article 8 of the Law on PD establishes the procedure for providing and withdrawing a subject's consent, while Article 9 sets out an exhaustive list of cases where collection and processing are permitted without consent — specifically, in the exercise of duties by law enforcement agencies and courts, state statistical activities, the implementation of ratified international treaties, and the protection of constitutional rights when obtaining consent is objectively impossible [2]. In employment relations, this means that an employee's refusal to sign a consent form for the transfer of their data to third parties entails only the impossibility of such a transfer, but cannot serve as grounds for adverse consequences; moreover, consent, once given, may subsequently be withdrawn by the employee. Requirements concerning storage location and cross-border data transfer are of particular importance. PD must be stored in databases located within the territory of the Republic of Kazakhstan; transfer beyond its borders — including when utilizing foreign cloud infrastructure or analytics services — is permitted under the rules of Article 16 of the Law on PD only provided that the receiving state ensures their protection or if other established grounds exist, including the subject's explicit consent. State regulation in this area is ensured by the authorized body in the field of PD protection. In its recent editions, the Law on PD has introduced the concept of a PD security breach and provided for the possibility of voluntary cyber insurance as a tool for distributing risks associated with data leaks (Article 23-1, introduced on January 2, 2021).

Employee Monitoring. Modern technical means allow employers to track employee activities in the workplace. In the absence of restrictions and transparency, the employer's legitimate interest in improving efficiency and protecting assets risks devolving into disproportionate and intrusive monitoring. The Working Party on the Protection of Individuals with regard to the Processing of Personal Data, established under Article 29 of Directive 95/46/EC, recommends a data protection impact assessment prior to the implementation of monitoring technologies and providing employees with full information in advance regarding the purposes, scope, and procedures for processing their PD [22]. Although the Article 29 Working Group has been superseded by the European Data Protection Board (EDPB) since the GDPR came into effect, Conclusion 2/2017 remains relevant as a concrete guideline for personal data processing in the workplace.

Consequently, the processes of employee monitoring by the employer must technically and organizationally ensure the principles of legality, necessity, proportionality and transparency. As a fulfillment of a legal obligation, the employer informs the employee about the legal basis of monitoring, the purposes, duration, methods, composition of the data received and their further use, with mandatory restrictions on interference with privacy. It is necessary to distinguish between covert surveillance, used in exceptional cases and directly provided for by laws, or reasonable suspicion, and continuous monitoring, which, according to the ILO approaches, is considered possible in order to ensure the health and safety of workers, as well as to ensure the safety of property [22].

The real tasks of creating modern digital technologies are primarily focused on their technical perfection, and when they are used, they expand the employer's ability to monitor employees, and this significantly affects the principle of proportionality [7, 11]. Surveillance and control of employees that is not related to specific production tasks or proven risks does not meet the principle of proportionality; however, targeted monitoring can be feasible if it is provided with an appropriate legal basis, a legitimate purpose, prior information to the employee, and has limitations on the amount of data collection and retention periods.

Legal responsibility and enforcement. In the presence of a well-developed system of legal responsibility, judicial practice on the protection of PD of employees is being formed. Administrative responsibility for the illegal collection and processing of PD is provided (Article 79 of the Code of Administrative Offences of the Republic of Kazakhstan), where the fines have been increased and differentiated since March 2025, taking into account the status of an individual or legal entity. For example, a violation by large business entities of protection measures, which resulted in loss, or the fact of illegal collection or processing of data entails a fine of up to 2000 Monthly Calculation Index [23]. The Criminal Code of the Republic of Kazakhstan increases liability in case of signs of a socially dangerous act (art. 147) [19]. Clearly, the fines in Kazakhstan, despite their increase, are several times less than those established by the GDPR (minor violations - up to EUR 10 million or 2% of the total annual turnover for the previous financial year; serious violations – up to EUR 20 million or 4% of the total annual turnover for the previous financial year). The Law on PD establishes the concept of a violation of PD security, which also applies to labour relations where the EPD is more vulnerable than in other civil law relations - the employee, unlike the customer (client), cannot terminate the legal relationship promptly without any high costs for himself/herself. If there were special norms in labour legislation dedicated to clear guidelines for the amount of PD of an employee, they would serve as preventive norms along with the already defined legal responsibility.

The norms of the LC RK provide for the processing of PD of an employee in such digital systems as the Unified System for Recording Employment Contracts and the digital personnel system (for government agencies and quasi-public sector entities). In practice, PD is used in a wider range of digital systems, including personnel, accounting, access control, and monitoring, while the norms of the LC RK do not provide for special requirements for such systems, which once again indicates gaps in legitimate legal regulation at the level of labour relations. Employers, as operators and owners of databases containing PD, commit mainly violations in terms of collecting excessive amounts of data, processing them without a legitimate reason, transferring them to third parties in the absence of the employee's consent or other legal basis, and not protecting them sufficiently. According to international rules, such actions may violate the confidentiality, integrity, and accessibility of EPD. The authorized bodies have already brought companies from various industries to justice, but disputes related specifically to data in labour relations are still rare. Unauthorized access, leakage, modification or deletion of personnel data is caused by such violations of the law by the employer as: lack of mandatory consent, collection of data that is not required for the stated purpose; use of IT systems and servers without sufficient protection; transfer of accounting data to IT contractors or the parent company without a legal basis; installation of biometrics and video cameras without assessing the need; disclosure of information about disciplinary actions in public chats or on blackboards.

Historical-Legal Argument. In 2007+ LC RK [16], there was a separate Chapter 5 “Collection, Processing and Protection of Personal Data of an Employee”, which contained special legal

norms governing relations between an employee and an employer. Upon the adoption of the LC RK in 2015 [3], the legislature abandoned this special regulation in favor of a simple reference to the Law on PD. Consequently, labour law lost the instruments that accounted for the specifics of employment, while the general law, as shown above, does not encompass these specifics. Restoring an independent chapter in the LC RK, updated to reflect digitalization and international standards, appears to be a logical step. In EU law, the protection of employee data is ensured by a combination of GDPR [6] and the labour law norms of member states, and the ILO, as early as 1997, developed a special Code of Practice dedicated specifically to employee data [4]. Against this backdrop, the absence of a corresponding chapter in the LC RK appears to be a gap that requires elimination, especially since the domestic legislature previously possessed such a chapter and now holds advanced digital legislation on PD, digitalization, and artificial intelligence, the general principles of which require labour-law specific substantiation.

Drafts of the Articles for the Proposed Chapter. In view of the above, it is proposed to supplement the LC RK with a new Chapter 3-1, "Protection of Employee Personal Data" (where the current subparagraph 24 of paragraph 1 of Article 22 and subparagraph 24 of paragraph 2 of Article 23 would serve as reference norms to this new chapter) as follows:

"Article 23-1. General Principles of the Collection, Processing, and Storage of Employee Personal Data. PD shall be processed in a lawful and fair manner and only on grounds directly related to the employee's employment. Data shall be used exclusively for the purposes for which it was originally collected. Data collected in connection with technical or organizational measures to ensure the security and proper functioning of digital systems shall not be used to monitor employee behavior. Decisions affecting an employee may not be based solely on automated processing of their data. Processing is permitted exclusively for the purposes of complying with legislation, assisting employees in employment, obtaining education, and promotion, ensuring the personal safety of employees, monitoring the quantity and quality of work performed, and safeguarding property. Processing shall not lead to discrimination in the sphere of labour and employment.

Article 23-2. Obligations of the Employer Regarding the Collection, Processing, and Storage of Employee Personal Data. The employer is obligated to reduce the types and scope of collected data; improve methods for protecting the privacy of employees; maintain confidentiality; ensure that individuals involved in data collection clearly understand its purpose and avoid misleading subjects; inform employees in advance about monitoring, its grounds, schedule, methods, and the composition of the collected data; ensure covert monitoring only in cases provided for by law; ensure data protection through reasonable security measures against loss and unauthorized access; not transfer data to third parties without the employee's consent, except as provided by law; and store data only as long as it is justified by the purposes of collection. The employer is prohibited from collecting data on political, religious, or other beliefs, criminal records, sexual life, or membership in a trade union, unless otherwise permitted by law or a collective agreement. Medical data may be collected for the purpose of determining fitness for specific work, fulfilling occupational safety requirements, and determining eligibility for social benefits; such data shall be stored separately and accessible only to personnel bound by rules of medical confidentiality.

Article 23-3. Rights of the Employee to the Protection of Their Personal Data. An employee has the right to free access to all his/her data, regardless of processing methods or storage media; the right to verify and obtain copies of any records containing his/her data; the right to

access available medical data through a medical professional of his/her choice; and the right to correct inaccurate or incomplete data.

Article 23-4. Rights of Employee Representatives to the Protection of Employee Personal Data. Employee representatives have the right to receive employee data in accordance with legislation or a collective agreement, only to the extent required for their functions. In the collective agreement, the parties may establish a regulated procedure for reviewing employee complaints regarding the processing of PD. Receiving information and consultations is the right of employee representatives regarding the procedure for introducing automated PD processing and digital monitoring systems into labour relations, the purposes of their implementation, the content, application procedure, and testing of EPD.

Article 23-5. Procedure for Depersonalization and Destruction of Personal Data of an Employee. Depersonalization of an EPD is recognized as actions aimed at making it impossible to determine its attribution to a contextual data subject without access to additional information. Additional information is stored independently using measures that exclude unauthorized identification of the employee. The use of symbols, changing or deleting some attributes, dividing an array of data, including with their separate storage, generalization or other transformation that excludes the possibility of identifying an employee.

Article 23-6. The Employee's Right to Appeal the Actions and Omissions of the Operator. An employee has the right to appeal the actions or omissions of an operator that violate his/her rights during data processing to the authorized body or to the court, as well as to demand compensation for damages and moral harm through judicial proceedings.

Conclusion

Despite the existence of the Law on Personal Data and numerous doctrinal recommendations in the field, the current LC RK does not contain detailed mechanisms for protecting employee data, limiting itself to a blanket reference. The existing gap is neither accidental nor an omission on the part of the legislator; rather, it was historically determined, since the separate chapter adjusting the protection of EPD in the 2007 LC RK was not reproduced when the 2015 LC RK was adopted. With regard context of digitization of labour and the inking of artificial intelligence, the absence of special labour law standards does not provide comprehensive legal regulation of the processing of PD of an employee during electronic monitoring, the application of biometric technologies and automated personnel decisions.

The contribution of this study to scientific knowledge consists in the systemic justification of the need to introduce a special chapter and in the development of a set of draft articles. These articles were constructed using the method of legal modeling based on proven ILO and EU standards, as well as the current digital legislation of Kazakhstan on PD, digitalization, and artificial intelligence, while taking into account the dependent position of the employee and the tightening of administrative liability since 2025. In particular, the principle that decisions regarding an employee may not be based purely on automated crunching is supported by the Law on AI. The proposed norms are intended to provide practical assistance to employers in drafting local policies and to reduce the number of violations in the sphere of labour. Future work may be directed toward the preparation of a comprehensive bill to introduce Chapter 3-1 into the LC RK and toward the empirical study of the emerging judicial practice regarding this category of disputes.

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Contribution of the authors
Kassymova X.B. – idea and plan of the study; analysis of the legislation and court practice; comparative legal analysis; elaboration of proposed articles; writing of the text; approval of the final version; responsibility for the whole work.
Satybaldiyeva M.T. – input into the idea; review of the foreign literature; analysis of administrative liability; revision of the text; approval of the final version; responsibility for the relevant parts.
Golovina S.Yu. – scientific supervision of the study; methodological guidance; evaluation of the theoretical significance and scientific validity of the conclusions.

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