

Tetiana Bilous-Osin¹ , G.Kh. Umarova² , E. Ongdashuly^{3*} 

¹National University «Odessa Academy of Law», Ukraine, Odessa

²Institute of Economics Science Committee of the Ministry of Education of the Republic of Kazakhstan, Kazakhstan, Almaty

³Al-Farabi Kazakh National University, Kazakhstan, Almaty

*e-mail: ernuron@mail.ru

THE MECHANISM OF LEGAL PROTECTION OF THE ECONOMIC SECURITY OF THE REPUBLIC OF KAZAKHSTAN IN THE CONTEXT OF GLOBAL CHALLENGES OF PRESENT TIME

The relevance of the topic of the article is due to the fact that at the beginning of the XXI century it is technological development that determines the competitiveness of the state, forms the conditions for economic growth, thereby ensuring the economic security of the state.

The main author's idea of this article was the assertion that the active development of the legal framework for ensuring the technological development of the Republic of Kazakhstan gives rise to problems of an institutional and legal nature that require resolution.

The scientific significance of this study lies in the fact that the article offers the author's interpretation of the investigated mechanism in structural terms.

The practical significance lies in the focus on solving specific problems identified in the analysis process.

Methodologically, the study was based on a systematic analysis, on the principle of a step-by-step solution of scientific and practical problems; the author of this article used the following research methods: the method of structuring the elements of complex social objects; method of systematization and analysis of the regulatory framework; methods of analysis and synthesis; design method and deduction method; methods of legal statics and methods of research of ratings.

The main results of the study were the substantiation of the need to improve the mechanism of legal protection of technologies and technological innovations based on the analysis of the legal framework and the institutional structure of the mechanism under study. As a result, conclusions were formulated regarding the improvement of the legal framework for regulation, as well as the creation of a specially authorized government body to ensure the functioning of this mechanism.

The value of the study is that its results are brought to the development of practical results, fused to improve the mechanism of legal protection of the economic security of the Republic of Kazakhstan in the context of increasing the technological competitiveness of the economy.

The practical value of the conclusions and provisions of this article is confirmed by the fact that they can be used: 1) to develop further directions for improving the mechanism for the protection and protection of intellectual property rights in the technological development of the republic; 2) to amend the legislation governing this area of law and economic development of Kazakhstan.

Key words: legal protection, mechanism, technologies, competitiveness, economic security.

Т.И. Билоус-Осинь¹, Г.Х. Умарова², Е. Оңдашұлы^{3*}

¹«Одесса заң академиясы» ұлттық университеті, Украина, Одесса қ.

²ҚР БҒМ ҒК Экономика институты, Қазақстан, Алматы қ.

³Әл-Фараби атындағы Қазақ ұлттық университеті, Қазақстан, Алматы қ.

*e-mail: ernuron@mail.ru

Қазіргі заманның жаһандық сын-қатерлері жағдайында Қазақстан Республикасының экономикалық қауіпсіздігін құқықтық қорғау тетігі

Мақала тақырыбының өзектілігі XXI ғасырдың басында Технологиялық даму мемлекеттің бәсекеге қабілеттілігін анықтайды, экономикалық өсу үшін жағдай жасайды, сол арқылы мемлекеттің экономикалық қауіпсіздігін қамтамасыз етеді.

Осы мақаланың негізгі авторлық идеясы Қазақстан Республикасының технологиялық дамуын қамтамасыз етудің құқықтық негіздерін белсенді дамыту шешуді талап ететін институционалдық-құқықтық сипаттағы проблемаларды туындатады деген тұжырым болды.

Бұл зерттеудің ғылыми маңыздылығы мақалада зерттелетін механизмнің құрылымдық тұрғыдан авторлық түсіндірмесі ұсынылатындығында.

Практикалық маңыздылығы талдау процесінде анықталған нақты мәселелерді шешуге бағытталған.

Әдістемелік жоспарда зерттеу жүйелі талдауға, ғылыми-практикалық мәселелерді кезең-кезеңімен шешу принципіне сүйенді; осы мақаланың авторлары зерттеудің мынадай әдістерін қолданды: күрделі әлеуметтік объектілердің элементтерін құрылымдау әдісі; нормативтік-құқықтық базаны жүйелеу және талдау әдісі; талдау және синтез әдістері; жобалау әдісі және шегеру әдісі; құқықтық статика әдістері және рейтингтік бағалауды зерттеу әдістері.

Зерттеудің негізгі нәтижелері зерттелетін тетіктің құқықтық базасы мен институционалдық құрылымына жүргізілген талдау негізінде технологиялар мен технологиялық жаңалықтарды құқықтық қорғау тетігін жетілдіру қажеттілігінің негіздемесі болды. Нәтижесінде реттеудің құқықтық негіздерін жетілдіруге, сондай-ақ осы тетіктің жұмыс істеуін қамтамасыз ететін мемлекеттік биліктің арнайы уәкілетті органын құруға қатысты тұжырымдар қарастырылды.

Жүргізілген зерттеудің құндылығы оның нәтижелері экономиканың технологиялық бәсекеге қабілеттілігін арттыру жағдайында Қазақстан Республикасының экономикалық қауіпсіздігін құқықтық қорғау тетігін жетілдіруге негізделген практикалық нәтижелерді әзірлеуге жеткізілгендігінде.

Осы баптың тұжырымдары мен ережелерінің практикалық құндылығы олардың: 1) республиканың технологиялық дамуында зияткерлік меншік құқықтарын сақтау мен қорғау тетігін одан әрі жетілдіру бағыттарын әзірлеу үшін; 2) Қазақстанның осы құқық саласы мен экономикалық дамуын реттейтін заңнамаға өзгерістер енгізу үшін пайдаланылуы мүмкін екендігімен расталады.

Түйін сөздер: құқықтық қорғау, механизм, технологиялар, бәсекеге қабілеттілік, экономикалық қауіпсіздік.

Т.И. Билоус-Осин¹, Г.Х. Умарова², Е. Оңдашұлы^{3*}

¹Национальный университет «Одесская юридическая академия», Украина, г. Одесса

²Институт экономики КН МОН РК, Казахстан, г. Алматы

³Казахский национальный университет имени аль-Фараби, Казахстан, г. Алматы

*e-mail: emuron@mail.ru

Механизм правовой защиты экономической безопасности Республики Казахстан в условиях глобальных вызовов современности

Актуальность темы статьи связана с тем, что в начале XXI столетия именно технологическое развитие определяет конкурентоспособность государства, формирует условия для экономического роста, обеспечивая тем самым экономическую безопасность государства.

Основной авторской идеей данной статьи явилось утверждение о том, что активное развитие правовых основ обеспечения технологического развития Республики Казахстан порождает проблемы институционально-правового характера, требующие разрешения.

Научная значимость данного исследования состоит в том, что в статье предложена авторская интерпретация исследуемого механизма в структурном плане.

Практическая значимость состоит в направленности на решение конкретных проблем, выявленных в процессе анализа.

В методологическом плане исследование опиралось на системный анализ, на принцип поэтапного решения научно-практических проблем; автором данной статьи использовались следующие методы исследования: метод структурирования элементов сложных социальных объектов; метод систематизации и анализа нормативно-правовой базы; методы анализа и синтеза; метода проектирования и метод дедукции; методы правовой статистики и методы исследования рейтинговых оценок.

Основным результатом исследования стало обоснование необходимости совершенствования механизма правовой защиты технологий и технологических новшеств на основе проведенного анализа правовой базы и институциональной структуры исследуемого механизма. В результате сформулированы выводы, касающиеся совершенствования правовых основ регулирования, а также создания специально уполномоченного органа государственной власти, обеспечивающего функционирование данного механизма.

Ценность проведенного исследования состоит в том, что его результаты доведены до разработки практических результатов, направленных на совершенствование механизма правовой защиты экономической безопасности Республики Казахстан в условиях повышения технологической конкурентоспособности экономики.

Практическая ценность выводов и положений данной статьи подтверждается тем, что они могут быть использованы: 1) для разработки дальнейших направлений совершенствования механизма охраны и защиты прав интеллектуальной собственности в технологическом развитии республики; 2) для внесения изменений в законодательство, регулирующее данную сферу права и экономического развития Казахстана.

Ключевые слова: правовая защита, механизм, технологии, конкурентоспособность, экономическая безопасность.

Introduction

At the beginning of the 21st century, technological development forms the basis of post-industrial transformations determining the competitiveness of national economies in world markets. The technological aspect of economic growth becomes a security factor, because only technologies determine the pace of socio-economic development and, thus, ensure economic sovereignty, creating conditions for the implementation of strategic tasks of socio-economic development.

The indisputability of this fact determines the content of the “Third Modernization of the Republic of Kazakhstan”, the main priority of this modernization is the accelerated technological modernization of the economy.

In this regard, the main goal of the state policy of industrialization of the Republic of Kazakhstan is the creation of a technologically advanced industry, the transformation and digitalization of fixed assets of existing enterprises focused on the creation of medium-, high-tech products with subsequent entry into global markets (Approval of the State program of industrial and innovative development of the Republic of Kazakhstan for 2020 – 2025, 2019).

However, it should be noticed that the pandemic has changed the world, and Kazakhstan must be ready for a new reality after COVID-19. The government is already actively working on adjusting strategic documents and policies to reflect the new conditions. Adjustments and changes will be made to the Strategic Development Plan of Kazakhstan

until 2025, the State Program “Digital Kazakhstan” and a number of strategic documents for the development of the country’s economy (Shevchenko, 2021).

Under these conditions, only an intensive approach to development is able to set an increasing trend for the Kazakhstani economy, which is associated with the tasks of increasing its technological competitiveness, given that the main factors of Kazakhstan’s global competitiveness are the high level of national human capital, technological modernization and digitalization; creation of conditions for the transition to a new technological order of Industry 4.0; technological renewal of the basic industries (agro-industrial, mining and metallurgical and fuel and energy complexes), which form the basis of the economy and will remain the engine for other industries in the medium term (Approval of the Strategic Development Plan of the Republic of Kazakhstan until 2025, 2018).

It should be noted that the new model of economic growth of the Republic of Kazakhstan requires the introduction of many technological innovations used in various industries, since the methods of production and value added are currently changing significantly. Today, artificial intelligence, the industrial Internet of things, 3D printing technologies are shaping the future of manufacturing industries, using the possibilities of flexible and smart manufacturing, which provides a revolutionary increase in productivity, while it should be said that the Kazakh scientific and technological complex already today has something to offer the world (table 1).

Table 1 – Technological innovative products and solutions created by the scientific and technological complex of the Republic of Kazakhstan (Trubacheva T., Suleimenova A., 2017)

Technologies and their practical potential	Organization -Developer
Technology for creating biocompatible implants stimulating the natural regeneration of tooth enamel and dentin. In 2015 InnoDent technology was patented in Kazakhstan. Nowadays, 50 dental clinics in Kazakhstan, 20 – in Ukraine, 10 – in Russia have purchased drugs created using this technology.	LLP “InnoDent”
Spilled oil collection technology using superhydrophobic sponges. it is possible to produce superhydrophobic filters for selective water and organic collection plants, using this technology.	RSE «Institute of Combustion Problems»

Table continuation

Technologies and their practical potential	Organization -Developer
Technology for the creation of fire-retardant paints for the protection of metal load-bearing structures of industrial and civil facilities in order to increase the stability of the structure to temperature effects and deformation during a fire	RSE «Institute of Combustion Problems»
The technology of creating «supercapacitors». Capable of fast charging and fast transfer of the received energy, which is especially actual for the creation of electric vehicles.	Al-Farabi Kazakh National University
Technology of bioresonance activation of seed material based on the developed device for influencing seeds with a low-frequency electromagnetic field using cosmic geophysical characteristics in order to increase crop yields	South Kazakhstan State Pedagogical Institute
Technology of creating glue for tissue bonding based on recombinant mussel adhesive proteins (MFP). There are no analogues of this technology in the world yet, and therefore there is a good potential for bringing a unique product to the market.	National Center for Biotechnology KN MES RK
A unique technology for obtaining metallic osmium has been developed. Considering that it is the most expensive metal in the world with completely unique properties, the prospects for this technology, in terms of its widespread adoption and use, look promising.	RSE “NC CMMS RK”

The presence in Kazakhstan of a sufficient number of “breakthrough” technological developments determines the technological competitiveness of the economy, as well as the need for legal protection of these technologies in terms of their use. This aspect of technological development is a matter of competitiveness of the national economy and national security, given the fact that these technologies determine the state of security of the state in the economic sphere, ensuring the sustainable development of the economy of the Republic of Kazakhstan and its economic independence (c. 4, ar. 4 of the Law of the Republic of Kazakhstan dated 6 January 2012 “On the national security of the Republic of Kazakhstan”).

Literature review

Theoretical aspects of ensuring national security in general and economic security as an integral part, in the context of technological shifts in the economy, were considered in the works of foreign authors (Ripsman, Norrin & Paul, 2010; Kazeki, 2021; Jackson, 2009; Rogers, 2010; Tal, 2000; Wright, 1983; Qian, 2007; Granstrand, 2010).

Analysis of research data shows that the problem of legal protection of technological innovations, as an integral part of ensuring economic security in the world, has come to the fore and has become not just a legal or commercial issue. As a result of the comprehensive intellectualization of the modern economy, they are increasingly becoming a political problem that requires strategic integrated approaches to solving. Under these conditions, the problems of stimulating the development and legal protection of technological innovations acquire the role of one

of the most important factors in the entire complex of political and economic relations and the security of each civilized country. The complexity of solving these problems lies in the extremely high degree of dynamism and versatility of relations associated with the development and implementation of technological innovations, as well as the fact that modern globalization and active information exchange create objective prerequisites for uncontrolled “technology spillover” from the countries that create technological innovations to countries that are able to see its perspective and quickly introduce innovation in the production process.

Western researchers have convincingly proven that there is a close relationship between the effectiveness of the protection of intellectual property rights, economic performance, the country’s competitiveness and economic security. The system of protection of intellectual property rights has a significant impact on the performance of economic growth in each country, on foreign direct investment, employment, innovation and overall competitiveness. Thus, the introduction of a reliable mechanism for the protection of intellectual property rights and enforcement is a key aspect of increasing the level of competitiveness of the country.

Many authors addressed issues related to ensuring the economic security of the Republic of Kazakhstan (Kalykov, 2017; Nurgaliuly, Kazbekova, 2021; Alpysbaev, 2019; Kuchukova, 2020; Madiyarova, Ryspekova, 2018, etc.).

The works of these researchers note the necessity to increase the level of competitiveness of the Kazakhstani economy with the help of using of the country’s financial capabilities, its innovative and intellectual potential.

Despite the fact that the problems of ensuring economic security in general, and the economic security of the Republic of Kazakhstan, in particular, have been sufficiently and comprehensively reflected in the scientific literature, certain aspects of this topic have remained outside the field of view of researchers. These little-studied issues include the problems of forming a mechanism and assessing the problems of legal protection of the economic security of the Republic of Kazakhstan in the context of increasing the technological competitiveness of the economy of Kazakhstan.

Thus, the aim of this article is to identify the problems of legal protection of the economic security of the Republic of Kazakhstan in the context of increasing the technological competitiveness of the economy and develop recommendations for their solution.

The objectives of the article are to study the mechanism of legal protection of technologies and technological innovations as a factor in the economic security of the Republic of Kazakhstan, to determine the range of issues related to this problem which must to be improved.

The object of research in the article is the process of ensuring the economic security of the Republic of Kazakhstan in terms of increasing the technological competitiveness of the economy.

Subject of research: legal protection of technologies and technological innovations ensuring economic security and competitiveness of the Kazakhstani economy.

Methodology

The research questions mentioned in this article determine the elements of its novelty. In particular, the article analyzes the elements that form the mechanism of legal protection of the economic security of the Republic of Kazakhstan in the context of increasing the technological competitiveness of the economy, which made it possible to offer the author's vision of this mechanism, which was embodied in the corresponding graphic model. Also in the article, are drawn conclusions about the problems arising in the process of developing the mechanism under study, based on the results of rating assessments.

The study was based on a systematic analysis, on the principle of a phased solution of scientific and practical problems. At the first stage, the mechanism of legal protection of the economic security of the Republic of Kazakhstan was studied in the condi-

tions of increasing the technological competitiveness of the economy, the problems associated with the development of this mechanism were identified; the second stage of the study was aimed at developing practical recommendations related to solving the previously identified problems.

The hypothesis of the study is the statement that the mechanism of legal protection of the economic security of the Republic of Kazakhstan in the context of increasing the technological competitiveness of the economy is at the stage of active development, and so there are problems in the development of the institutional and legal system that need to be resolved.

The methodological basis of the study is general scientific and special methods of cognition of socio-economic processes and phenomena of legal reality.

The main scientific results of the study were obtained with the use of the following methods: the method of structuring the elements of complex social objects in the study of the structure of the institutional and legal mechanism for the legal protection of technologies and the management of their development processes; the method of systematization and analysis of the legal framework at the stage of studying the legal aspects of the problem raised in the article; method of analysis and synthesis – in the study of problems associated with the development of the mechanism under study; design method and deduction method – in the development of recommendations related to the solution of identified problems; methods of legal statistics and methods for researching ratings at the stage of confirming the assumptions put forward.

The novelty of the chosen methodological approach is determined by the fact of synthesizes methods of cognition of legal and economic reality.

Results and discussion

The current stage of development of the world economy is characterized by a change in priorities, when various technologies (digital, information, industrial, biological, social and managerial) become the main drivers of socio-economic progress.

In this regard, the achievement of economic development through the large-scale introduction into economic circulation of such products of intellectual labor as knowledge, technology, scientific and technical developments, as well as their commercialization, is recognized as a priority model of innovative development of the Republic of Kazakhstan. This model should ensure the resumption of

the pace of development of the national economy in the post-pandemic period, the entry of Kazakhstan into the number of developed world economies. An important element of this model is not only the development and support of domestic high-tech industries, but also the protection of intellectual property rights, which is an integral part of the process of developing a competitive innovative economy of the Republic of Kazakhstan and requires special attention to the legal protection of the technological innovation potential of the country, ensuring its competitiveness in world markets.

At the same time, referring to the world rankings, it is necessary to note the low competitive position of Kazakhstan in the main aspects of competitiveness, technological development and protection of intellectual property rights. So, for example, according to the international index of property rights protection, which determines the level of protection of this form of property, the level of piracy in the country of Kazakhstan takes 85th place (Ranking of countries by the level of property rights protection, 2020). In the ranking of countries by the level of innovation at 79th place (Ranking of countries by the level of innovation, 2021); in the ranking of countries in terms of global competitiveness at 35th place (Ranking of global competitiveness of the countries of the world, 2021); in the ranking of countries by the number of patents granted – at 145th place (Ranking of countries by the number of patents, 2020).

These data indicate the problematic of Kazakhstan's entry into the 30 most developed countries of the world, which is defined as a strategic goal of the country's economic development (Concept for Kazakhstan's entry into the 30 most developed countries of the world, 2014).

In many respects, these problems are connected with the fact that Kazakhstan could not fully ensure the creation of a mechanism for the legal protection of economic security in order to increase the technological competitiveness of the economy.

Considering directly the concept of "mechanism of legal protection of economic security", our analysis of the scientific literature showed the absence of any precise definition of it, despite the fact that researchers widely use the term "legal mechanism", indicating that legal mechanisms are special constructions of positive law that formalize a certain "set" of legal regulators (legal means), such as: rights, obligations, prohibitions, principles, presumptions, fictions, terms, procedures,

incentives, means of responsibility, etc. The legal mechanism is a complex legal tool (Amangeldy Aizhan Amangeldykyzy, 2015).

At the same time, the analysis of works (Kalykov, 2017; Nurgaliuly, Kazbekova, 2021; Alpysbaev, 2019; Kuchukova, 2020; Madiyarova, Ryspekova, 2018, etc.) allows us to determine the mechanism of legal protection of economic security, taking into account the need to protect technological innovations that ensure the competitiveness of the Republic of Kazakhstan in the world markets as a set of actions of the authorities subject to the norms of national legislation aimed at increasing the level of competitiveness of the economy of Kazakhstan by creating conditions for the protection of intellectual property rights in the technological sphere, as well as stopping violations if they are committed, ensuring the restoration of violated rights and bringing those responsible to justice.

It should be admitted that there were created the grounds for further development of the mechanism of legal protection of economic security in terms of ensuring the technological competitiveness of the economy in the country (Fig. 1).

It is necessary to consider the structural elements of this mechanism in more detail.

This mechanism is based on the system of legal protection of the economic security of the Republic of Kazakhstan in terms of ensuring the national interests of the country in the field of technological development. This system is based on the Constitution of the Republic of Kazakhstan; the Law of the Republic of Kazakhstan The Law of RK "National Security of the Republic of Kazakhstan", the Entrepreneurial Code of the Republic of Kazakhstan, the Code of the Republic of Kazakhstan "On Customs Regulation in the Republic of Kazakhstan", the Criminal Code of the Republic of Kazakhstan, the Code of Administrative Offenses of the Republic of Kazakhstan, the Customs Code of the Eurasian Economic Union, etc.; on the norms of the Civil Code; the Law of the Republic of Kazakhstan "On Copyright and Related Rights", the Law "On the Legal Protection of Topographies of Integrated Circuits"; Law "On Trademarks, Service Marks and Appellations of Origin"; Law "On protection of breeding achievements"; Patent Law; Law "On State Secrets". Law "On Forensic Activities in the Republic of Kazakhstan", Law of the Republic of Kazakhstan "On Arbitration Courts", Law of the Republic of Kazakhstan "On International Commercial Arbitration".

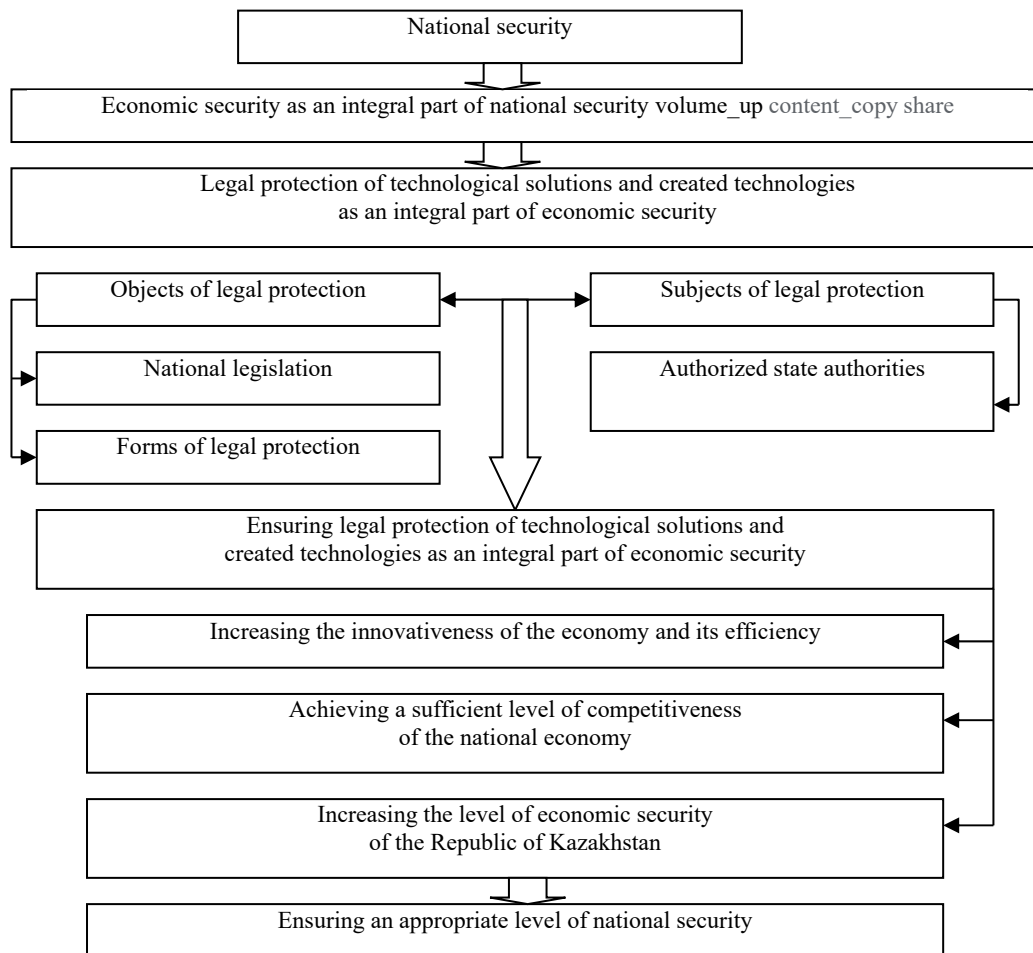


Figure 1 – The mechanism of legal protection of national security in order to increase the technological competitiveness of the economy of the Republic of Kazakhstan (made by the author)

In general, the existing regulatory framework provides legal protection of intellectual property objects and the procedure for their use.

It should also be noted that one of the fundamental theoretical problems is to determine the very content and structure of the mechanism under study (in this case we are talking about the “mechanism of legal protection of the economic security of the Republic of Kazakhstan from the point of view of the technological competitiveness of the economy”), is the definition of objects of legal protection. Referring to the patent law and the Civil Code of the Republic of Kazakhstan, industrial property objects – inventions, utility models and industrial designs (clause 7 of article 1 of the Patent Law of the Republic of Kazakhstan), as well as breeding achievements should be considered as such; topology of integrated circuits; undisclosed information, including production secrets (know-how).

It is equally important the definition of entities that protect the national interests of Kazakhstan in

the field of intellectual property, among which a special place is occupied by:

- Ministry of Justice of the Republic of Kazakhstan (represented by the Committee for Intellectual Property Rights of the Ministry of Justice of the Republic of Kazakhstan);

- the national patent authority responsible for the implementation of state policy in the field of intellectual property, initiation and proceedings in cases of administrative violations, patent examination);

- Ministry of Internal Affairs of the Republic of Kazakhstan – initiation and proceedings on cases of administrative violations and criminal cases;

- Ministry of Finance of the Republic of Kazakhstan – suspension of the release of goods with violations of intellectual property rights, initiation and proceedings in cases of administrative violations and criminal cases;

- The National Security Committee of the Republic of Kazakhstan, which implements a unified policy in the field of protecting state secrets;

- Courts considering cases of administrative offenses in the field of intellectual property and, accordingly, protecting already violated rights of owners of intellectual property objects.

The given study shows that a significant number of functional components operating in various areas of public administration, which have distinctive functions and capabilities, are integrated into the national system of legal protection in the field of intellectual property and technological development. This fact is an objectively existing problem of the development of the institutional and legal system, which negatively affects the practice of law enforcement and hinders the process of forming an effective legal system.

Considering researched legal mechanism, it is obvious to point out that an integral element of the legal mechanism for the protection and protection of intellectual property rights in the field of technological development are forms of protection and protection.

An analysis of the scientific literature (Amangeldy Aizhan Amangeldykyzy, 2021, Kalykov, 2017; Nurgaliuly, Kazbekova, 2021) suggests that there are currently two such forms: a general and a special form of protection of intellectual property rights. Accordingly, the general form of protection can be attributed the judicial procedure already mentioned by us, while the special one provides for the applicable administrative procedure for protection, for example, by the customs authorities of the Republic of Kazakhstan in relation to the protection of intellectual property rights, as well as authorized bodies that carry out checks aimed at detecting cases of piracy, the use of a licensed product in the absence of a license.

Thus, in general, in Kazakhstan, the main elements of the mechanism of legal protection of national security have been formed in order to increase the technological competitiveness of the economy.

At the same time, evaluating this mechanism, we can identify those problematic aspects that reduce the effectiveness of its functioning. The following problems need to be highlighted:

- the imperfection of certain provisions of the legislation that do not allow copyright holders to fully protect their rights, in particular, we are talking, for example, about a conflict between Art. 15 of the Patent Law, which determines that "...a new product is considered to be obtained by a protected method in the absence of evidence to the contrary", and art. 72 of the Civil Procedure Code of the Republic of Kazakhstan, according to which the party must prove the circumstances to which it refers as

the basis for its claims. That is, Art. 15 of the Patent Law, in fact, gives the patent holder the opportunity to demand that the person who violated his right prove that the invention, the created technology does not bear any signs of novelty. At the same time, the norms of civil procedural law reject such a possibility.

As a result of such a conflict, the patent owner often loses the incentive to protect his rights. And in the end, patent activity is decreasing, which directly affects the level of the country's economic security.

It should also be noted that the national legislation in the field of technological intellectual property does not determine what actions are recognized as infringement in relation to a particular object of such rights, at the same time indicating that industrial property offenses are, without the permission of the copyright holder, the following actions: using a patented invention (utility model), the use of such a product, offer for sale, sale, import, introduction into civil circulation in another way, storage of the product for such a purpose; application of a patented technological process or its proposal for application (Amangeldy Aizhan Amangeldykyzy, 2021).

We believe that such specification of illegal acts may well be included in the regulatory framework of Kazakhstan, which will make it possible to more effectively protect the rights of patent holders to ensure the economic security of the Republic of Kazakhstan in order to increase the technological competitiveness of the economy.

A significant problem related to the protection of technological innovations is the fact that in Kazakhstan, there are still (on the part of Kazakhstani business) ignoring the requirements of laws on compliance with intellectual property rights, as a result of which the investment attractiveness of the country is reduced, since Western and already Chinese businesses are ready to cooperate with countries that have "transparent" conditions for the use of intellectual property. It is difficult for foreign rights holders to defend their rights in the judicial bodies of Kazakhstan due to the fact that Kazakh courts, as well as other legal protection bodies, as a rule, take the side of local businessmen, which gives investors and right holders the impression that these bodies are corrupt, that the transfer of Kazakhstan technologies, since the terms of such contracts are often not followed.

At the same time, according to the latest data (end of 2019), despite the overall decrease in the number of infringements in the field of intellectual property, their number is still very significant. It is noteworthy that the category of violations un-

der consideration acquires, in the main, the nature of administrative offenses (Fig. 2). At the same time, the total number of detected offenses does not correspond to foreign ideas about the state of legal protection of technologies, which appeal to

the data of the rating of countries by the level of use of pirated software, according to which 74.0% of software in Kazakhstan is of “pirated origin” (Ranking of countries by the level of use of pirated software, 2019).

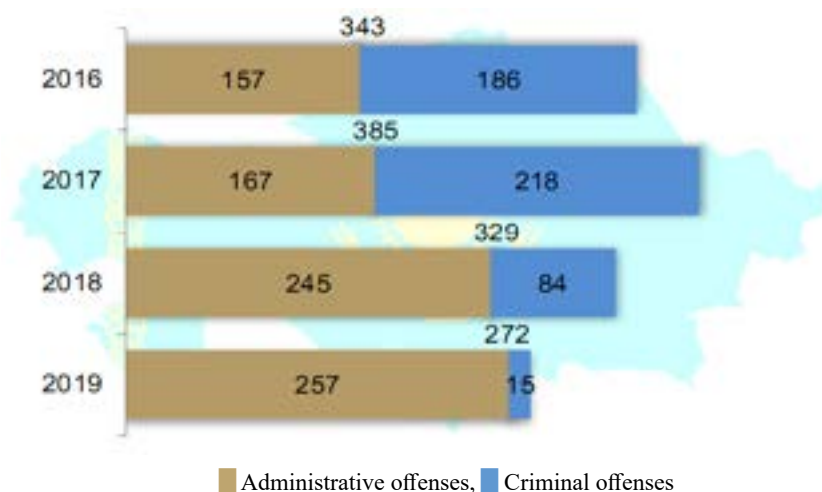


Figure 2 – The number of violations detected in the Republic of Kazakhstan by types of violations from 2016 to 2019 (Report on the state of law enforcement practice in the field of protection of intellectual property rights, 2020)

Thus, assessing the mechanism of legal protection of the economic security of the Republic of Kazakhstan in order to increase the technological competitiveness of the economy, we can say that the development of this mechanism requires further improvement in terms of legislative support for this activity, as well as in the direction of increasing the level of state control associated with the use of technology and technological innovations (both domestic and foreign origin) on the territory of Kazakhstan. Exactly these two spheres (legislative support and control) that should become a priority in providing legal protection for the economic security of the Republic of Kazakhstan in order to increase the technological competitiveness of the country’s economy.

The effectiveness of protecting the rights of technology and technological innovation right holders depends on the perfection of the regulatory framework, and therefore we recommend revising it in order to identify legal conflicts that impede the process of protecting these rights. In the process of implementing the revision of the legislation, repetitions, gaps are revealed, the quality of the conceptual apparatus, legalized in the norms of the legislation, is determined. Also, it should be noted that the protection of the rights of technology developers seeks

to meet modern requirements, be transparent and democratic. So, for example, laws aimed at protecting industrial property should, first of all, ensure the economic and moral rights of authors to the results of scientific and technical activities, stimulate their creative activity in accordance with state interests, commercialize technologies and on the basis of real exchange. The development of the management of the state system of legal protection of technological developments in the Republic of Kazakhstan should provide for the creation of conditions for improving the investment climate and supporting entrepreneurship; raising the level of consciousness and culture of Kazakhstani business in the field of intellectual property for technological purposes.

The most important aspect of the state policy for the acquisition, use and protection of intellectual property rights in the field of technological development is the implementation by the state of control functions in this area. Currently, the functions of control in this area of activity are carried out by the justice authorities (Article 21 of the Law “On the Bodies of Justice”), which control the activities of organizations managing property rights on a collective basis, patent attorneys and interact with them; as well as control over the activities of a state organization that carries out examination in the field

of patent business and registration of copyright in official registers.

In addition, other bodies that have already been listed above in this article have a number of control powers, which objectively reduces the effectiveness of control activities due to the presence of initial powers, departmental competition, etc.

In this regard, we believe that in order to effectively improve the existing system for managing the system of legal protection of technologies and technological innovations in the Republic of Kazakhstan, it is necessary to create an organizational structure for managing intellectual property that meets the principles of the innovative economy of the Republic of Kazakhstan.

We propose the creation of a specialized department responsible for managing intellectual property, technological development and protecting the rights of creators of technological and other innovations. The implementation of this proposal involves the formation of a contingent of specialists from public authorities capable of skillfully solving the problems of managing the intellectual property of the Republic of Kazakhstan, its legal protection and control over its use. Such a body (an agency for the development and protection of intellectual property rights of the Republic of Kazakhstan) can be created in the form of a state institution and perform the following functions: organizing accounting and maintaining a unified register of the results of scientific and technical activities, the rights to which are assigned to the Republic of Kazakhstan; forecasting, planning, control over projects for the commercialization of the results of scientific and technical documentation of national importance.

This approach allows to transfer a significant amount of work in the field of legal protection of technologies and technological innovations to the level of a single state body, which will increase the responsibility of the state and those authorized for the results of this activity, create conditions for making prompt decisions based on the results of control over the use of technologies at the level of public authorities and business.

Conclusion

The purpose of this study was defined as identifying the problems of legal protection of the economic security of the Republic of Kazakhstan in the context of increasing the technological competitiveness of the economy and developing recommendations for their solution.

To achieve this goal, the author used a set of methods for structuring the elements of complex social objects; systematization and analysis of the legal framework; methods of analysis and synthesis; design and deduction method; legal statistics and methods for researching ratings.

As a result of using these methods, practical results, which were obtained, aimed at improving the mechanism of legal protection of the economic security of the Republic of Kazakhstan in the context of increasing the technological competitiveness of the economy.

The given study allows us to state that at present the mechanism under study needs to be improved, since the current legislative and institutional structure of this mechanism makes it difficult to implement the tasks of increasing the competitiveness of the Kazakhstani economy.

In this regard, at present in the Republic of Kazakhstan, there is a need to revise the legislative framework in order to eliminate the contradictions in it, as well as to create a state control body, which will be delegated the authority to solve the problems of legal protection of technologies and technological innovations.

We associate the prospects for further research with the necessity to specify the conditions that contribute to the further technological development of the Republic of Kazakhstan.

In general, the article confirmed the hypothesis that the mechanism of legal protection of the economic security of the Republic of Kazakhstan in the context of increasing the technological competitiveness of the economy is at the stage of active development, in connection with which there are problems in the development of the institutional and legal system that need to be resolved.

Литература

Алпысбаев К. С. Политика экономической безопасности как элемент корпоративного управления [Текст]: дисс. канд. эконом. наук / К. С. Алпысбаев. – СПб., 2019. – 174 с.

Амангельды А.А. Право интеллектуальной собственности Республики Казахстан на современном этапе [Текст]: дисс. канд. наук / Амангельды А.А. – М., 2015. – 540 с.

Гражданский процессуальный кодекс Республики Казахстан от 31 октября 2015 года № 377-V // «Казакстанская правда» от 03.11.2015 г., № 210 (28086)

Закон Республики Казахстан от 6 января 2012 года № 527-IV «О национальной безопасности Республики Казахстан» // «Казакстанская правда» от 17.01.2012 г., № 19-20 (26838-26839)

Инновационное и предпринимательское развитие национальной экономики в условиях глобализации [Текст]: монография / под ред. Д.М. Мадияровой, М.О. Рыспековой. – Астана: Евразийский национальный университет им. Л.Н. Гумилева, 2018. – 276 с.

Калыков Д.Д. Правовое обеспечение экономической безопасности Республики Казахстан [Текст] / Д.Д. Калыков // В сборнике: Юридическая наука и практика. альманах научных трудов Самарского юридического института ФСИН России. – 2017. – С. 115-116.

О Концепции по вхождению Казахстана в число 30 самых развитых государств мира: Указ Президента Республики Казахстан от 17 января 2014 года № 732 // «Казакстанская правда» от 28.01.2014 г. № 18 (27639);

Об органах юстиции: Закон Республики Казахстан от 18 марта 2002 года N 304 // Ведомости Парламента Республики Казахстан, 2002 г., N 6, ст. 67; «Казакстанская правда» от 22 марта 2002 года N 062-063.

Об утверждении Государственной программы индустриально-инновационного развития Республики Казахстан на 2020 – 2025 годы: Постановление Правительства Республики Казахстан от 31 декабря 2019 года № 1050. – (<https://adilet.zan.kz/rus/docs/P1900001050>).

Об утверждении Стратегического плана развития Республики Казахстан до 2025 года: Указ Президента Республики Казахстан от 15 февраля 2018 года № 636 // «Казакстанская правда» от 20.02.2018 г., № 35 (28664)

Отчет о состоянии правоприменительной практики в сфере защиты прав на объекты интеллектуальной собственности в Евразийском Экономическом Союзе за 2019 год. – М., 2020. – 47 с.

Патентный закон Республики Казахстан: Закон Республики Казахстан от 16 июля 1999 года № 427-I // Ведомости Парламента Республики Казахстан, 1999 г., N 20, ст. 718; 2004 г., N 17, ст. 100.

Рейтинг глобальной конкурентоспособности стран мира. – (<https://gtmarket.ru/ratings/imd-world-competitiveness-ranking>)

Рейтинг стран по количеству патентов. – (<https://nonews.co/directory/lists/countries/number-patents>)

Рейтинг стран по уровню защиты прав собственности. – (<https://nonews.co/directory/lists/countries/property-right-index>)

Рейтинг стран по уровню инноваций. – (<https://nonews.co/directory/lists/countries/global-innovation-index>)

Рейтинг стран по уровню использования пиратского ПО. – (<https://nonews.co/directory/lists/countries/software-license>)

Трубачева Т. 10 изобретений, которые могут предложить миру учёные Казахстана / Т. Трубачева, А. Сулейменова. – (https://forbes.kz/process/science/fantasticheskaya_desyatka_1/)

Финансовые аспекты Третьей модернизации экономики Казахстана [Текст]: монография / Под ред. д.э.н., проф. Н.К. Кучуковой; Евразийский национальный университет им. Л.Н. Гумилева. – Нур-Султан, ИП Булатов А.Ж., 2020. – 605 с.

Шевченко Е. Анализ пробелов в сфере науки, технологий и инноваций (НТИ) в Казахстане. – (https://unece.org/sites/default/files/2021-03/STI%20gap%20analysis_Kazakhstan_Report_Elena%20Shevchenko_RUS.pdf)

Granstrand, O. (2010). *Industrial Innovation Economics and Intellectual Property*. 5th ed. – Gothenburg: Svenska Kulturkompaniet.

Jackson, T (2009). *Prosperity without growth: economics for a finite planet*. – London: Earthscan.

Kazeki J. *Economic Security Policy as Growth Strategy and Recent Developments in Trade Rules* – (<https://www.rieti.go.jp/en/events/bbl/21090601.html>)

Nurgaliuly A. *Economic security of Kazakhstan: applying foreign experience*. Nurgaliuly A., Kazbekova L.A. // *Central Asian Economic Review*. – 2021. No 3 (138). – С. 53-65.

Qian, Y. (2007). Do National Patent Laws Stimulate Domestic Innovation in a Global Patenting Environment? A Cross-Country Analysis of Pharmaceutical Patent Protection, 1978–2002. // *The Review of Economics and Statistics*. – No 89(3). – P. 436-453.

Ripsman, Norrin M., and T. V. Paul (2010). *Globalization and the National Security State*. – Oxford: Oxford University Press.

Rogers, P (2010). *Losing control: global security in the twenty-first century* (3rd ed.). – London: Pluto Press.

Tal, Israel (2000). *National Security: The Israeli Experience*. – Westport, Conn: Praeger,

Wright, B.D. (1983). The economics of invention incentives: Patents, prizes, and research contracts // *American Economic Review*. – No 73(4). – Pp. 691–707.

References

Alpysbayev K. S. *Politika ekonomicheskoy bezopasnosti kak element korporativnogo upravleniya* [Economic security policy as an element of corporate governance]: diss. kand. ekonom. nauk / K. S. Alpysbayev. SPb., 2019. 174 s.

Amangel'dy Ayzhan Amangel'dykyzy. *Pravo intellektual'noy sobstvennosti Respubliki Kazakhstan na sovremennom etape* [Intellectual property law of the Republic of Kazakhstan at the present stage]: diss. kand. nauk / Amangel'dy Ayzhan Amangel'dykyzy. M., 2015. 540 s.

Grazhdanskiy protsessual'nyy kodeks Respubliki Kazakhstan ot 31 oktyabrya 2015 goda № 377-V // “Kazakhstanskaya pravda” ot 03.11.2015 g., № 210 (28086)

Zakon Respubliki Kazakhstan ot 6 yanvarya 2012 goda № 527-IV. O natsional'noy bezopasnosti Respubliki Kazakhstan» // “Kazakhstanskaya pravda” ot 17.01.2012 g., № 19-20 (26838-26839)

Innovatsionnoye i predprinimatel'skoye razvitiye natsional'noy ekonomiki v usloviyakh globalizatsii [Innovative and entrepreneurial development of the national economy in the context of globalization]: monografiya / pod red. D.M. Madiyarovoy, M.O. Ryspekovoy. Astana: Yevraziyskiy natsional'nyy universitet im.L.N.Gumileva, 2018. 276 s.

Kalykov D.D. Pravovoye obespecheniye ekonomicheskoy bezopasnosti Respubliki Kazakhstan [Legal support of the economic security of the Republic of Kazakhstan]. V sbornike: Yuridicheskaya nauka i praktika. al'manakh nauchnykh trudov Samarskogo yuridicheskogo instituta FSIN Rossii. 2017. pp. 115-116.

Kontseptsii po vkhozheniyu Kazakhstanu v chislo 30 samykh razvitykh gosudarstv mira: Ukaz Prezidenta Respubliki Kazakhstan ot 17 yanvarya 2014 goda № 732 // "Kazakhstanskaya pravda" ot 28.01.2014 g., № 18 (27639);

Ob organakh yustitsii: Zakon Respubliki Kazakhstan ot 18 marta 2002 goda N 304 // Vedomosti Parlamenta Respubliki Kazakhstan, 2002 g., N 6, st. 67; "Kazakhstanskaya pravda" ot 22 marta 2002 goda N 062-063

Ob utverzhdenii Gosudarstvennoy programmy industrial'no-innovatsionnogo razvitiya Respubliki Kazakhstan na 2020 – 2025 gody: Postanovleniye Pravitel'stva Respubliki Kazakhstan ot 31 dekabrya 2019 goda № 1050. – (<https://adilet.zan.kz/rus/docs/P1900001050>).

Ob utverzhdenii Strategicheskogo plana razvitiya Respubliki Kazakhstan do 2025 goda: Ukaz Prezidenta Respubliki Kazakhstan ot 15 fevralya 2018 goda № 636 // "Kazakhstanskaya pravda" ot 20.02.2018 g., № 35 (28664)

Otchet o sostoyanii pravoprimenitel'noy praktiki v sfere zashchity prav na ob'yekty intellektual'noy sobstvennosti v Yevraziyskom ekonomicheskom soyuze za 2019 god. – Moskva, 2020. – 47 s.

Patentnyy zakon Respubliki Kazakhstan: Zakon Respubliki Kazakhstan ot 16 iyulya 1999 goda № 427-I // Vedomosti Parlamenta Respubliki Kazakhstan, 1999 g., N 20, st. 718; 2004 g., N 17, st. 100.

Reyting global'noy konkurentosposobnosti stran mira. – (<https://gtmarket.ru/ratings/imd-world-competitiveness-ranking>)

Reyting stran po kolichestvu patentov. – (<https://nonews.co/directory/lists/countries/number-patents>)

Reyting stran po urovnyu zashchity prav sobstvennosti. – (<https://nonews.co/directory/lists/countries/property-right-index>)

Reyting stran po urovnyu innovatsiy. – (<https://nonews.co/directory/lists/countries/global-innovation-index>)

Reyting stran po urovnyu ispol'zovaniya piratskogo PO. – (<https://nonews.co/directory/lists/countries/software-license>)

Trubacheva T. 10 izobreteniy, kotoryye mogut predlozhit' miru uchonyye Kazakhstanu [10 inventions that scientists of Kazakhstan can offer the world] / T. Trubacheva, A. Suleymenova. – (https://forbes.kz/process/science/fantasticheskaya_desyatka_1/)

Finansovyye aspekty Tret'yey modernizatsii ekonomiki Kazakhstanu [Financial aspects of the Third modernization of the economy of Kazakhstan]: monografiya, Pod red. N.K. Kuchukovoy /Yevraziyskiy natsional'nyy universitet im. L.N. Gumileva. Nur-Sultan, IP Bulatov A.ZH., 2020. 605 s.

Shevchenko Ye. Analiz probelov v sfere nauki, tekhnologiy i innovatsiy (NTI) v Kazakhstane [Gap Analysis in Science, Technology and Innovation (STI) in Kazakhstan.]. – (https://unece.org/sites/default/files/2021-03/STI%20gap%20analysis_Kazakhstan_Report_Elena%20Shevchenko_RUS.pdf)

Granstrand, O. (2010). Industrial Innovation Economics and Intellectual Property. 5th ed. Gothenburg: Svenska Kulturkompaniet.

Jackson, T (2009). Prosperity without growth: economics for a finite planet. London: Earthscan.

Kazeki J. Economic Security Policy as Growth Strategy and Recent Developments in Trade Rules – (<https://www.rieti.go.jp/en/events/bbl/21090601.html>)

Nurgaliuly A. Economic security of Kazakhstan: applying foreign experience. Nurgaliuly A., Kazbekova L.A. Central Asian Economic Review. 2021. № 3 (138). C. 53-65.

Qian, Y. (2007). Do National Patent Laws Stimulate Domestic Innovation in a Global Patenting Environment? A Cross-Country Analysis of Pharmaceutical Patent Protection, 1978–2002. The Review of Economics and Statistics. No 89(3). pp. 436-453.

Ripsman, Norrin M., and T. V. Paul (2010). Globalization and the National Security State. Oxford: Oxford University Press.

Rogers, P (2010). Losing control: global security in the twenty-first century (3rd ed.). London: Pluto Press.

Tal, Israel (2000). National Security: The Israeli Experience. Westport, Conn: Praeger,

Wright, B.D. (1983). The economics of invention incentives: Patents, prizes, and research contracts. American Economic Review. No 73(4). pp. 691–707.