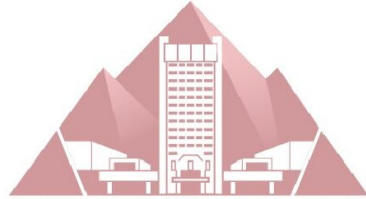


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# ХАБАРШЫ

ЗАҢ СЕРИЯСЫ

## ВЕСТНИК

СЕРИЯ ЮРИДИЧЕСКАЯ

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ӘЛ-ФАРАБИ атындағы ҚАЗАҚ ҰЛТТЫҚ УНИВЕРСИТЕТІ

# ХАБАРШЫ

Заң сериясы

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КАЗАХСКИЙ НАЦИОНАЛЬНЫЙ УНИВЕРСИТЕТ имени АЛЬ-ФАРАБИ

# ВЕСТНИК

Серия юридическая

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AL-FARABI KAZAKH NATIONAL UNIVERSITY

# JOURNAL

of Actual Problems of Jurisprudence

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2020

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## **SPECIFICS OF INTERNATIONAL LEGAL AND NATIONAL REGULATION OF ELECTRONIC DOCUMENT MANAGEMENT**

The article is devoted to current issues of legal regulation of electronic document management in the world practice and at the national level.

The aim of the article is to provide the reader with some informations at studying the features of international legal and national regulation of relations taking shape in the field of electronic document management. The main goal of the article is a comparative analysis of the norms of international legal regulation of electronic document management in various legal systems.

The authors came to the conclusion that Estonia's experience in the legal regulation of electronic document management should be introduced into the Kazakhstan electronic document management system, since Estonia was the first in the world to elect parliament through the Internet, the first to conduct an electronic population census. Estonia has one of the most developed electronic identification systems in the world using ID cards, which provides citizens with access to any electronic service in the country.

During the research of the questions posed that has been made, there were used several methods, including: logical, formal, analytical. In addition, private scientific methods were used in the work: structural-system analysis, concrete historical, comparative legal, logical, statistical methods, etc.

**Key words:** electronic document, electronic document management, electronic digital signature, electronic government.

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### **Электрондық құжат айналымын халықаралық-құқықтық және ұлттық реттеудің ерекшеліктері**

Бұл мақалада әлемдік тәжірибеде және ұлттық деңгейде электрондық құжат айналымын құқықтық реттеудің өзекті мәселелері талқыланады.

Бұл мақала электрондық құжат айналымы саласындағы қалыптасқан қатынастарды халықаралық-құқықтық және ұлттық реттеудің ерекшеліктерін зерттеуге бағытталған.

Мақаланың негізгі мақсаты – әртүрлі құқықтық жүйелердегі электрондық құжат айналымының халықаралық-құқықтық нормаларын салыстырмалы талдау.

Авторлар Эстонияның электронды құжат айналымын құқықтық реттеудегі тәжірибесін қазақстандық электронды құжат айналымы жүйесіне енгізу керек деген қорытындыға келді, өйткені Эстония әлемде бірінші болып Интернет арқылы парламентті сайлады, электронды халық санағын жүргізді.

Эстонияда жеке куәліктерді қолдана отырып, әлемдегі ең дамыған электронды сәйкестендіру жүйелерінің бірі бар, ол азаматтарға елдегі кез келген электрондық қызметке қол жеткізуге мүмкіндік береді.

Қойылған сұрақтарды зерттеуде логикалық, формальды, аналитикалық әдістер қолданылды. Сонымен қатар жұмыста жеке ғылыми әдістер қолданылды: құрылымдық-жүйелік талдау, нақты тарихи, салыстырмалы құқықтық, логикалық, статистикалық әдістер және т.б.

**Түйін сөздер:** электрондық құжат, электрондық құжат айналымы, электрондық цифрлық қолтаңба, электрондық үкімет.

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### **Особенности международно-правового и национального регулирования электронного документооборота**

В настоящей статье рассматриваются актуальные вопросы правового регулирования электронного документооборота в мировой практике и на национальном уровне.

В данной статье исследуются особенности международно-правового и национального регулирования отношений, складывающихся в сфере электронного документооборота. Основная цель статьи заключается в сравнительном анализе норм международно-правового регулирования осуществления электронного документооборота в различных правовых системах.

Авторы пришли к выводу о необходимости внедрения опыта Эстонии в правовом регулировании электронного документооборота в систему казахстанского электронного документооборота, так как Эстония первой в мире выбирала парламент через интернет, первой провела электронную перепись населения. В Эстонии функционирует одна из самых развитых в мире систем электронной идентификации с помощью ID-карточек, которая обеспечивает гражданам доступ к любой электронной услуге в стране.

В ходе исследования поставленных вопросов использовались логический, формально-правовой, аналитические методы. Кроме того, в работе использованы и частные научные методы: структурно-системного анализа, конкретно-исторический, сравнительно-правовой, логический, статистический методы и др.

**Ключевые слова:** электронный документ, электронный документооборот, электронная цифровая подпись, электронное правительство.

#### **Introduction**

The internationalization of international commercial relations and the emergence of such an economic phenomenon as globalization necessitated the international unification and harmonization of legislation in various fields.

Electronic document management is a way of exchanging information between participants in legal relations located in different states, and therefore it is practically impossible to ensure adequate regulation within any one country without taking into account the prevailing approaches to regulation abroad. The variety of legal systems, differences in national legislation in relation to the field of electronic document management can cause legal uncertainty in the relations between the parties. It should also be borne in mind that in the context of the global exchange of electronic data, the use of electronic document management in some cases can complicate the use of individual conflict bindings in private international law.

The international legal unification in the field of electronic document management took place in stages, taking into account the needs of practice and differences in the legal systems of states. At the initial stage, the most general form of unification was chosen, indicating only the direction – the

Model Law (in form) on the exchange of electronic data (in content).

#### **Main part**

All countries, where electronic document management is regulated, can be divided into 3 blocks ([https://infosaver.pro/informations/ecp/other\\_countries/](https://infosaver.pro/informations/ecp/other_countries/)).

Each block has its own model of legal regulation of electronic document circulation (Dumortier, 2013: 37). The first block is the American electronic document management. The second block is the European model used by EU member states. The third block is the post-Soviet model of electronic document management. It is used in most CIS countries (Mäntysaari, 2010: 368).

#### **Regulation of electronic document circulation in the countries of North America and Canada.**

With regard to learning from the experience of the United States in the field of legal regulation of electronic document management, we should distinguish two levels of this regulation. The first level is represented by laws that are developed and adopted in individual states of America, and its jurisdiction is limited to the states. The second level is federal. At this level, laws that are passed and they disseminate their jurisdiction to the whole country.

In the United States, from the very beginning, a situation *has emerged* that legislative activity on the settlement of electronic document circulation was initiated from the bottom. Only a few years later, «Electronic Signatures in Global and National Commerce Act» was established, and adopted at the federated level (<https://www.govinfo.gov/content/pkg/PLAW-106publ229/pdf/PLAW-106publ229.pdf>).

In essence, «Electronic Signatures in Global and National Commerce Act», adopted by the US Congress in 2000, outlined the concept and legal status of an electronic document. The law established an equal sign between the electronic and paper documents, which made it possible to conclude interstate contracts using information technology without duplicating all the necessary documents in paper form. The law provides that no one should use or accept electronic documents without their consent. For example, if the message is to be sent to the receiver in writing, then he will receive it in this form, unless he agrees to accept this notice in electronic form.

One significant fact is that, although many states have adopted independent laws that regulate the use of electronic documents and electronic signatures, the US Congress expressed the opinion that federal law is required to regulate this sphere, as there are differences of opinion and terminology. For example, in some states, it was allowed to use any type of signature (electronic and digital). In other states, electronic signatures were not used, only digital signatures acted instead. There were also states, where the electronic signatures one of the parties to contracts could only be used in accordance with the law, the other states limited the range of commercial transactions without limiting the parties to the contract in the use of EDS, at the conclusion, it was possible to use electronic or digital signatures.

It should be noted, that the adoption of a general law did not abolish regulatory legal acts that have already functioned in individual states. Over time, the necessary amendments and additions were made, which adapted the state laws of the «Electronic Signatures in the Global and National Commerce Act».

In 1995, the very first law in the field of electronic document management was appeared and adopted in the state of Utah – «Utah Digital Signature Act» (<https://translate.google.com/translate?hl=ru&sl=en&u=http://www.jus.unitn.it/USERS/PASCUZZI/privcomp97-98/documento/firma/utah/udsa-1.html&prev=search>).

Although the Utah Digital Signature Act directly regulated the use of digital signatures in

e-commerce, it can be considered the first stone in the foundation of the legal regulation of electronic document management in the United States. Despite the fact, that many of the provisions of the Utah Digital Signature Act were vague, confusing or even insufficient to *adequately* address many legal and political issues in the field of electronic document management, it provoked interest in this problem not only within the country, but also abroad. The Utah Digital Signature Act has become an unofficial model law. On its basis, similar laws on electronic documents and electronic signatures were adopted in such states as Washington, California, Minnesota, Missouri, New Mexico, Oregon in subsequent years.

A common feature of these laws is the use of terms such as «message» or «document» instead of the term «electronic document».

In «Washington Electronic Authentication Act», an email message was equivalent in meaning to a regular paper document. The e-mail was legally binding only if it contained a digital signature issued by the confirming center. Thus, the Law stated that a digital signature is an essential requisite of an electronic message. We note that this provision was identical for both «Washington Electronic Authentication Act» and «Utah Digital Signature Act».

The California Digital Signature Act, adopted in California regulated the sphere of the electronic document circulation and digital signature of the public sector, leaving aside the private sector. The Rules «California Digital Signature Regulations» were developed on the base of the «California Digital Signature Act».

In the Rules, the technology of a signature creation was regulated, requirements for the creation, operation and licensing of centers authorized to certify signatures were contained. In «California Digital Signature Regulations», the term “message” was used instead of the term «electronic document», that meant digital reproduction of information, which is used as a written document in working with government agencies.

It should be noted, that the state of Indiana used the experience of the state of California by adopting the Electronic Digital Signature Act in 1997. In the Law, by analogy with the «California Digital Signature Act», the restriction on the use of digital signatures in the circulation of documents was determined. The use of digital signatures was permitted only to state institutions with the exception of the Supreme Court and the Treasury. Auditing, legislative and other legal organizations were also indicated as an exception.

In 1999, New York State adopted the «Electronic Signatures and Records Act». This law allowed New York state residents to use electronic documents equally with paper documents according to their wish.

The law clarified the term «electronic record», that meant information, which recorded any action, agreement, incident, event, and other activity stored by electronic means.

It should be highlighted, the law of the State of New Mexico «Electronic Authentication of Documents Act», which allowed the use of electronic documents not only in e-commerce, but also in all areas of activity. In the Act, a specific approach to determining the essence of an electronic document was implemented. Based on the norms of this law, the electronic and the paper documents were not considered as types of documents, and were only a form of information presentation.

In Florida, «Florida Electronic Signature Act» adopted in 1996, was similar to the Utah Digital Signature Act. The main objectives of the adoption of «Florida Electronic Signature Act» were:

- recognition by the company of electronic signatures and increasing citizens' confidence in the use of electronic documents;
- promoting the development of e-commerce; – promoting the introduction of electronic documents in the activities of state bodies.

*It is requested that the term «writing» be used along with the terms «message» and «document» in the «Florida Electronic Signature Act»* Firstly “Writing” refers to the process of creating an electronic document on any medium with the possibility of filing it in NC form, and secondly, it involves writing something on paper. Thus, a single general term was fixed for paper and electronic document at the state level. A distinctive feature of this Law is the provision that an electronic signature is endowed with an equivalent legal force with a handwritten signature, and it is permitted to use for signing documents .

For five years of development and adoption of «Utah Digital Signature Act» in Utah, similar laws began to be adopted throughout America. Laws were passed in addition to examined ones : «Georgia Electronic Records and Signatures Act» in Georgia; «Minnesota Electronic Authentication Act» in Minnesota; «Digital Signature Act» in Mississippi; «Digital Signature Act» in Missouri; «Digital Signature Act» in Nebraska; Electronic Signature Act in Oregon; «Texas House Bill 984» in Texas and others.

Investigating the legal regulation of electronic document circulation in the United States, one

cannot ignore the attempt to create a general law at the federal level for the development of electronic commerce. In the USA, the National Conference of Commissioners for the Unification of State Law adopted the Uniform Electronic Transactions Act (UETA) in 1999. UETA is a model law in its content, adopted to ensure uniform rules for regulating e-commerce in the United States.

UETA applies only to those transactions that the parties agreed to carry out it in electronic form. In fact, the Law did not create a new system of legal norms for the electronic market, but only guaranteed that electronic transactions are equivalent to paper transactions and subject to high-quality execution.

The «Paperwork Reduction Act» is characterized by the fact that there is a lack of clarity of the procedures and conceptual apparatus of electronic document management. It is clear from the norms of the Law that the term «electronic format» refers to electronic documents, but there is no separate of the interpretation of this concept in § 3502 Definitions «Paperwork Reduction Act». These gaps in the legislation resulted in inaccuracies in the actions of subjects of informational relations, which later caused the need to improve the legislative framework. It should be noted that the federal organization called the National Archives and Records Management of the USA (NARA) makes an enormous contribution to the improvement of this database.

One of the main activities of NARA is the implementation of the Electronic Records Archives project. It is based on the creation of an archive system for documents, which allows for the storage of electronic documents, regardless of the type of media and software. As part of project achievement of the Electronic Records Archives also aims to make electronic documents accessible to the public.

The Canadian experience is somewhat similar to the US experience in the field of electronic document management. It should be noted that in Canada, the rules govern the scope of electronic document contained in the various laws that have been taken at the federal level and at the level of its entities (provinces and territories).

In 1999, a model law «Uniform Electronic Commerce Act» (UECA) was adopted in Canada to implement the principles of the «Model Law on Electronic Commerce».

In addition to UECA, the Personal Information Protection and Electronic Documents Act (PIPEDA) operates at the federal level, in which measures are taken to create functional equivalence between electronic and paper documents. PIPEDA is the basic law in the field of electronic document circulation,

common to all the territorial components of Canada. In PIPEDA, an electronic document means data that is, recorded or stored on any storage medium, in a computer system or similar device, and can be read or perceived by a person, computer system, or other similar device. «Personal Information Protection and Electronic Documents Act» regulates:

- *the provision of information to the federal government in electronic form;*
- *the implementation of payments to the federal government in electronic form;*
- *the use of electronic documents for submitting documents to state bodies;*
- *use of electronic signatures;*

The main directions of legislative regulation of electronic document circulation at the provincial and territorial levels of Canada are to clarify the status of electronic documents and contracts, concluded in electronic form. The Northwest Territories, British Columbia, Manitoba and others went by recognizing electronic signatures and documents, structuring their acts on the basis of the federal «Uniform Electronic Commerce Act».

They contain the same rules of electronic document management and the corresponding exceptions. For example, according to the British Columbia and the Yukon legal acts, electronic documents do not include wills, title documents, documents of land Transfer Act, majority of assignments. All these documents are either not legally valid if they are in electronic form, or their role in electronic document management is limited.

It should be noted that the legislation based on «Uniform Electronic Commerce Act» contains a number of norms of «functional equivalence», that is, norms containing conditions, the fulfillment of which allows the use of an electronic document instead of a paper one. For example, when the information or document should be presented in written form, their electronic equivalent of an electronic document will be suitable for further use without a paper original.

#### **The European model in the field of legal regulation of electronic document management.**

Here should be highlighted the main role of the European Council and the United Nations Commission on International Trade Law (UNCITRAL / UNCITRAL).

In 1996, UNCITRAL was developed and adopted «Model Law on Electronic Commerce» ([http://www.uncitral.org/uncitral/ru/uncitral\\_texts/electronic\\_commerce / 1996Model.html](http://www.uncitral.org/uncitral/ru/uncitral_texts/electronic_commerce / 1996Model.html)). This Law on e-commerce has become a model in the development of rules for conducting

electronic document management. In particular, it is intended for overcoming of obstacles arising in connection with provisions of the law, which cannot be changed on the grounds of contract, the way of establishing of equal mode for paper and electronic information. Such equal treatment is essential for creating opportunities for paperless means of communication, that contributes to the efficiency of international trade. To validate electronic documents, Model law is recommended to use so called «functionally-equal approach». The principle of this approach is to transfer a new legal concept (electronic document) to established legal constructions of the usual «paper» document.

At the same time, the functions of a paper document are identified and an equivalent mechanism of information is selected for each function. In our opinion, the equal attitude to different forms of documents is important for ensuring the use of paperless communication, thereby contributing to the efficiency of international trade. In 2001 year with this organization was adopted «Model Law on Electronic Signatures» ([http://www.uncitral.org/uncitral/en/uncitral\\_texts/electronic\\_commerce/](http://www.uncitral.org/uncitral/en/uncitral_texts/electronic_commerce/)).

The law is aimed to create and facilitate the use of electronic signatures. Its norms expand the possibilities of using electronic documents. Model Law on Electronic Signatures assisted European countries in creating a modern, coherent and fair legislative framework that enshrines the legal regime of electronic signature and circulation of documents when using it.

After the *enactment* of both model laws, most European countries took into account their position due to the need to unify the legislation, applicable in the field of electronic document circulation.

In 2000, Directive 2000/31 / EC – Directive on electronic commerce (Directive 2000/31 / EC of the European Parliament and Council of 8 June 2000 on certain legal aspects of the information society services, in particular electronic commerce, Domestic Market was adopted by the European Parliament and Council. («Electronic Commerce Directive») (<https://eur-lex.europa.eu/eli/dir/2000/31/oj>). Directive 2000/31 / EC creates a legal framework for regulating the use of electronic documents, concluding contracts using electronic means, the activities of information service providers, resolving disputes in the field of electronic commerce and implementing the Directive's norms in the legislation of EU member states.

On May 4, 2000, the European Parliament approved Directive 2000/31 / EC and decided that Member States were obliged to implement

the directives in their legislation for 18 months, amending laws that could prevent the use of electronic contracts. Since 2008, all 28 members of the European Union have coped with this task. As well as Directive 2000/31 / EC, Directive 1999/93 / EC (Electronic Signatures Directive) and Directive 2001/115 / EC (Electronic Invoicing Directive) should also be highlighted. These directives have been implemented by all EU member states.

In 2001, the ERPANET project was launched, aimed at ensuring the preservation of digital cultural heritage and digital scientific sites.

In the same year, the Common European Specifications “Model Requirements for the Management of Electronic Record Specification” (MoReq were prepared: Model Requirements for Electronic Records Management) (<http://ec.europa.eu/idabc/en/document/2303/5927.html>).

These specifications were used to assess the quality of software products used by EU authorities. MoReq has become widespread due to the versatility and adaptability not only in the EU, but throughout the world. In 2008, the Common European specifications were significantly improved, corrected and published in the new version of MoReq2, taking into account the functional efficiency of MoReq and with the development of electronic document management.

It should be noted that despite the availability of model laws, many EU countries have their own specialized legislation in the field of electronic document management.

In 1999 «The Act on Electronic Service in the Administration» was adopted in Finland «The Act on Electronic Service in the Administration» (<https://www.finlex.fi/en/laki/kaannokset/2003/en20030013.pdf>). The peculiarity of this Law was that it allowed the use of electronic documents in the mutual exchange of data between government bodies and their clients. If such a document required signing, then it should have been signed by electronic signature, confirmed by a special certificate.

In France, instead of adopting a special law regulating electronic data exchange, they adopted a law that amended the Civil Code. After amendments were made in 2000, the French Civil Code endowed electronic data with the same legal force as data on traditional paper media. Then there was adopted «Décret n° 2001-272 du 30 mars 2001 pris pour l'application de l'article 1316-4 du code civil et relatif à la signature électronique» (Decree No. 2001-272, March 30, 2001, adopted to apply the article 1316-4 of the Civil Code concerning electronic signatures) ([www.legifrance.gouv.fr/affichTexte.do?cidTexte=J](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=J)

ORFTEXT000000404810), which regulated the use of digital signatures and brought French law into line with European standards.

In Italy, the first attempts in the field of electronic document management were made in 1997. They are associated with the adoption of the Law «Delega al Governo per il conferimento di funzioni e compiti alle regioni ed entità locali, per la riforma della Pubblica Amministrazione e per la semplificazione amministrativa» ([http://pti.regione.sicilia.it/portal/page/portal/PIR\\_PORTALE/PIR\\_Doc/PIR\\_Metro/6.pdf](http://pti.regione.sicilia.it/portal/page/portal/PIR_PORTALE/PIR_Doc/PIR_Metro/6.pdf)) and Decree «Regolamento recante criteri e modalità per la formazione, archiviazione e la trasmissione di documenti con strumenti informatici e telematici».

The first of these regulatory legal acts recognized any documents created in state or private organizations using computer technology as legal. This norm was also enshrined in the Decree. The decree became a specialized normative act regulating issues related to electronic documents and digital signatures.

Of particular note is the fact that Italy is the only country in the EU that has a «Code of electronic government» («Codice dell'amministrazione Digitale») dated January 27, 2018 (<https://www.dikegiuridica.it/prodotto.php?Id=1045>). Despite the fact that the Code is aimed at regulating the system of state control, many norms are devoted to electronic documents and ensure their legal force.

It should be noted that on the 1st May, 2004 Estonia together with other 9 countries – Latvia, Lithuania, Poland, Slovakia, the Czech Republic, Hungary, Slovenia, Malta and Cyprus became a full member country of the European Union.

Estonia was the first in the world to elect parliament via the Internet, the first to conduct an electronic population census and the first to introduce an electronic residence for foreigners. A small and not the richest North European country on the way to building a digital state has overtaken many world leaders who spend hundred million dollars on this for years.

The scope of document management is regulated by law: on the 8th of March, 2000, the Digital Signature Act (Digitaalalkirja seadus. Vastu võetud 03/08/2000. RT I 2000, 26, 150 jõustumine 12/15/2000) (<https://www.riigiteataja.ee/akt/694375>) was adopted in Estonia. In accordance with § 2 of this Law, a digital signature is a set of data generated by a system of technical and organizational tools used by a signatory to indicate its relationship with a document. A digital signature has the same legal consequences as a handwritten signature.



Estonia has one of the most developed electronic identification systems in the world using ID cards, which provides citizens with access to any electronic service in the country. Estonia introduced this system in 2002 and has since issued over 1.24 million such cards ([https://www.id.ee/public/The\\_Estonian\\_ID\\_Card\\_and\\_Digital\\_Signature\\_Concept.pdf](https://www.id.ee/public/The_Estonian_ID_Card_and_Digital_Signature_Concept.pdf)).

Using this card, users can also access the e-government services at any time and digitally sign any document (Pappel, 2017: 39).

Considering electronic services in Estonia, it is impossible not to mention the e-residency service. However, this service has nothing to do with a residence permit in the country. The holder of an e-resident card does not have any legal rights in Estonia; he is the same foreigner as a person without such a document. Using an electronic resident card, you can register a company in Estonia in less than 20 minutes, conduct business, pay taxes, open accounts in Estonian banks, sign international agreements, encrypt files (Kotka, 2015: No. 3: 1-16).

The e-residency service was first launched in Estonia in 2014. Since then, more than 20 thousand electronic residents from 138 countries have registered in the country. At the same time, experts predict that by 2025 this number can grow to 10 million people. The development of this service and its promotion opens up enormous opportunities for Estonia. New «virtual» companies, regardless of which state their citizens are, do business and pay taxes in Estonia.

Law of the Republic of Lithuania No. VIII-1822 On Electronic Signature was adopted on July 11, 2000 (<https://e-seimas.lrs.lt/portal/legalActPrint/lt?jfwid=o8ojc642b&documentId=TAIS.208908&category=TAD>). This Law regulates the creation, verification, validity of electronic signatures, the rights and liabilities of signature users, establishes certification services and requirements for their providers, as well as the rights and functions of an electronic signature supervisor (Petrauskas, 2014: 75).

The Law on Electronic Communications of the Republic of Lithuania regulates the use of electronic documents in tenders and other procedures that can be carried out on the basis of tenders and other sites (<https://www.e-tar.lt/portal/lt/legalAct/6d0095f07c4611e8ae2bfd1913d66d57>).

The Republic of Lithuania also operated with the Cabinet of Ministers Regulation No. 473 dated June 28, 2005 (paragraph No. 33, §§ 5) «The Procedure for the Development, Design, Storage and Distribution of Electronic Documents in State

and Local Authorities and the Procedure for the Distribution of Electronic Documents between State and Local authorities or between these institutions and individuals and legal entities» (<https://likumi.lv/doc.php?id=111613>). The development and execution, storage and distribution of electronic documents in state and local authorities is carried out in accordance with the requirements established in other regulatory acts on the development, execution, storage and distribution of documents, unless otherwise specified in the Rules. If the parties agree to sign in writing an electronic document with an electronic signature, the requirement for a secure electronic signature and time stamp can be canceled. If the documentary information is not prepared electronically, the authority is not obliged to issue it electronically (unless these provisions indicate otherwise). In addition, the Law on Electronic Documents was adopted, which are formed on the basis of certain parameters and determine the possibility of issuing them to citizens and public organizations (<https://likumi.lv/ta/id/68521-elektronisko-dokumentu-likums>).

Particularly noteworthy is the model of legal regulation of electronic document management in the countries of the Commonwealth of Independent States (the CIS countries).

In a number of CIS countries, including the Republic of Kazakhstan, the Law «On electronic document» or «On electronic digital signature» is in force, designed to establish the legal basis for the use of electronic documents, determine the basic requirements for electronic documents, the rights, obligations and responsibilities of participants in legal relations arising in the field of circulation of electronic documents.

It should be noted that from the beginning of 2000 to the present, in a number of CIS countries, laws regulating relations in the field of electronic document management have been adopted more than once, due to the fact that the rapidly changing world of the Internet requires a more detailed and deep legal regulation of relations in this area (for example, the Russian Federation, the Republic of Belarus, the Republic of Moldova, the Kyrgyz Republic); in a number of republics, there are two independent normative legal acts: the Law «On electronic document» and the Law «On electronic digital signature» (for example, the Republic of Tajikistan); in some republics, a normative legal act regulates relations in the field of electronic document and electronic document management (Ukraine).

Adopted for the first time (in the territory of the CIS countries) on January 10, 2000 in the Republic

of Belarus, the Law «On electronic document» (no longer valid) defined the concept of «electronic document as information recorded on a machine medium and meeting the requirements established by this Law» ([http://online.zakon.kz/Document/?doc\\_id=30506945](http://online.zakon.kz/Document/?doc_id=30506945)).

Subsequently, this Law ceased to be in force in connection with the adoption of the new Law of the Republic of Belarus dated December 28, 2009 No. 113-3 «On an electronic document and electronic digital signature», according to which an electronic document is defined as an electronic document with the details allowing to establish its integrity and authenticity ([http://kodeksy-by.com/zakon\\_rb\\_ob\\_elektronnom\\_dokumente\\_i\\_elektronnoj\\_tsifrovoj\\_podpisi.htm](http://kodeksy-by.com/zakon_rb_ob_elektronnom_dokumente_i_elektronnoj_tsifrovoj_podpisi.htm))

On December 19, 2000, the President of Turkmenistan signed the Law of the Republic of Turkmenistan «On electronic document», according to which an electronic document means «information recorded on a machine medium, authenticated with an electronic digital signature in accordance with the procedure for creating such a signature» (<http://medialaw.asia/node/176>).

In Russia, the corresponding law was adopted on January 10, 2002 No. 1-FL «On electronic digital signature» (no longer in force) ([http://www.consultant.ru/document/cons\\_doc\\_LAW\\_34838/](http://www.consultant.ru/document/cons_doc_LAW_34838/)). In accordance with Art. 3 of this Law, an electronic document is a document in which information is presented in electronic digital form. The main distinguishing feature from other documents is the presentation of the document. In the legal literature, many began to note that this definition is quite broad, and it does not fully disclose the concept under consideration, which gives rise to its ambiguous interpretation in solving problems of legal regulation of issues of using electronic documents.

The following interpretation of this term was enshrined in Federal Law of July 27, 2006 N 149-FL «On Information, Information Technologies and the Protection of Information» as a supplement to clause 11.1 «electronic document – documented information presented in electronic form, that is, in the form suitable for human perception using electronic computers, as well as for transmission over information and telecommunication networks or processing in information systems» ([http://www.consultant.ru/document/cons\\_doc\\_LAW\\_61798/42](http://www.consultant.ru/document/cons_doc_LAW_61798/42)).

Documented information is information recorded on a tangible medium by documenting details with which it is possible to determine such information or, in cases established by the legislation

of the Russian Federation, its tangible medium. In this case, the legislator specified the term «electronic document». In addition to the document submission form, there is a material information carrier and information identifying information and a material medium (date, document registration number; date, material registration number; person who signed the document or registered the carrier and others, in accordance with the standards for various types of documents).

In Kazakhstan, the law that regulates relations in the field of electronic document was adopted by January 7, 2003 – the Law of the RK «On electronic document and electronic digital signature» ([https://online.zakon.kz/document/?doc\\_id=1035484](https://online.zakon.kz/document/?doc_id=1035484)). The definition of an electronic document enshrined in domestic law is more specific: it is a document in which information is presented in electronic digital form and verified by electronic digital signature.

On February 10, 2004, the Government of the Republic of Kazakhstan adopted a Decree No. 165 «On approval of the list of types of documented information and electronic documents provided without fail for the formation of state information resources» (<http://egov.kz/cms/ru/law/list/P040000165>).

Subsequently, on April 17, 2004, Decree of the Government of the Republic of Kazakhstan N 430 «On the Approval of the Electronic Document Management Rules» was adopted (<http://adilet.zan.kz/rus/docs/P040000430>). In this Decree, the concept of an electronic document was fixed, similar to the concept enshrined in the Law of the Republic of Kazakhstan «On electronic document management and electronic digital signature».

On July 19, 2006, the Agency of the Republic of Kazakhstan on Informatization and Communications approved the «Temporary Electronic Document Management Rules of the Government of the Republic of Kazakhstan».

At the current stage of development of the legislative framework in the field of electronic document management, we consider it necessary to note the Resolution of the Government of the Republic of Kazakhstan dated October 12, 2017 No. 640 On introducing amendments to the Resolution of the Government of the Republic of Kazakhstan dated April 17, 2004 No. 430 «On approval of the Electronic Document Management Rules». In accordance with these Rules, an electronic copy of a document is a document that fully reproduces the form and information (data) of an original document in electronic digital form (<http://ru.government.kz/ru/postanovleniya/>

postanovleniya-pravitelstva-rk-za-oktyabr-2017-goda/1012089-o-vnesenii-izmenenij-v-postanovlenie-pravitelstva-respubliki-kazakhstan-ot-17-aprelya-2004-goda-430-ob-utverzhenii-pravil-elektronnogo-dokumentooborota.html).

It should be noted that Kazakhstan is studying and introducing Estonian experience in the field of electronic document management. So, on March 12, 2019, Astana hosted the International Forum «Digitalization: Estonian Experience» (<https://astana.mfa.ee/forum-cifrovizacija-opyt-estonii-proshel-v-astane/>). An event organized by The Eurasia Investment Platform was attended by vice ministers of health, education, labor and social protection of the Republic of Kazakhstan, representatives of the Embassy of the Republic of Estonia in Kazakhstan (Estonian Embassy in Astana), Tallinn Technical University (TalTech – Tallinn University of Technology), Holding Zerde JSC and others.

The rector of Tallinn Technical University TalTech Jaak Aaviksoo made a welcoming speech. According to the speaker, more than 60 years ago, research in the field of cybernetics began in Estonia, which allowed the development of technology in the country.

«From the first day that our country became an independent republic, we changed paper circulation in banks into electronic. In 1995, with US \$ 2 million allocated, 1,000 schools were connected to the Internet. After 5 years, all schools in Estonia had access to the network. We set a big goal and understood that in the long run this will lead us to the fact that all young people will be on the wave of technological trends» – said J. Aaviksoo (<https://astana.mfa.ee/forum-cifrovizacija-opyt-estonii-proshel-v-astane/>).

The forum also discussed Estonia's experience in implementing an electronic reservation system at border crossings, in the digitization of ports, as well as experience in ensuring cyber security.

In Ukraine, the Law on Electronic Documents and Electronic Document Management was adopted on May 22, 2003 (<http://singlewindow.org/docs/67>). In accordance with Article 5 of this normative legal act, an electronic document is a document in which information is recorded in the form of electronic data, including the mandatory details of the document. The composition and procedure for the placement of mandatory details of electronic documents is determined by law. An electronic document can be created, transmitted, stored and converted electronically into a visual form. The visual form of filing an electronic document is the

reflection of the data that it contains, electronically or on paper in a form suitable for human perception of its contents.

On July 15, 2004, the Law of the Republic of Moldova «On electronic document and digital signature» No. 264-XV (expired) ([http://online.zakon.kz/Document/?doc\\_id=30535001#sub\\_id=40000](http://online.zakon.kz/Document/?doc_id=30535001#sub_id=40000)) came into force. An electronic document in it was presented as «information in electronic form, created, structured, processed, stored, transmitted using a computer, other electronic devices or software and hardware, digitally signed in accordance with this law».

Subsequently, the Republic of Moldova adopted the new Law «On electronic signature and electronic document» dated May 29, 2014 ([https://online.zakon.kz/Document/?doc\\_id=35317772](https://online.zakon.kz/Document/?doc_id=35317772)). The Law on Electronic Signatures and Electronic Documents is part of a program to integrate the legislation of the Republic of Moldova with the legislative framework of the European Union. The preamble of this Law defines that «this law creates the necessary basis for the application of Directive No. 1999/93 / EC of the European Parliament and of the Council of December 13, 1999 on the legal framework for the regulation of electronic signatures, published in the Official Journal of the European Communities No. L 13 of January 19 2000 year».

In accordance with Article 2 of the Law of the Republic of Moldova «an electronic document is information in electronic form created, structured, processed, stored and / or transmitted using a computer or other electronic devices, signed by electronic signature in accordance with the law» ([https://online.zakon.kz/Document/?doc\\_id=35317772](https://online.zakon.kz/Document/?doc_id=35317772)).

It should be noted that in the Republic of Tajikistan there are two independent regulatory legal acts regulating relations in the field of electronic document management. In the adopted law «On an electronic document» of the Republic of Tajikistan on May 10, 2002, an electronic document is presented «as information recorded on a machine medium and complying with the requirements established by this Law» ([http://base.spininform.ru/show\\_doc.fwx?rgn=2183](http://base.spininform.ru/show_doc.fwx?rgn=2183)). Machine carriers include magnetic disks, magnetic tapes, laser disks, and other material media used to record and store information using electronic computer technology.

On July 30, 2007, a new Law of the Republic of Tajikistan «On electronic digital signature» was adopted ([https://base.spininform.ru/show\\_doc.fwx?rgn=18412](https://base.spininform.ru/show_doc.fwx?rgn=18412)). An electronic document in accordance with this Law is a document in which

information is presented in electronic digital form.

On March 9, 2004, the Law of the Azerbaijan Republic No. 602-III «On electronic signature and electronic document» entered into force. In accordance with this Law, an electronic document is a document for use in an information system, submitted in electronic form and confirmed by electronic signature. Electronic signature – data added to or logically associated with other data, allowing to identify the owner of the signature ([http://base.spinform.ru/show\\_doc.fwx?rgn=7428](http://base.spinform.ru/show_doc.fwx?rgn=7428)).

The Republic of Uzbekistan also adopted the Law governing relations in the field of electronic document management – the Law of the Republic of Uzbekistan «On electronic document management» No. 611-II of April 29, 2004. In article 5 of this regulatory legal act, the following concept of an electronic document is enshrined – this is information recorded in electronic form, confirmed by an electronic digital signature and having other details of an electronic document allowing it to be identified ([http://lex.uz/pages/getpage.aspx?lact\\_id=165074](http://lex.uz/pages/getpage.aspx?lact_id=165074)). An electronic document is equivalent to a paper document and has the same legal force.

In 2004, the Legislative Assembly of the Jogorku Kenesh of the Kyrgyz Republic adopted the Law on Electronic Document and Electronic Digital Signature (expired) ([https://base.spinform.ru/show\\_doc.fwx?rgn=18412](https://base.spinform.ru/show_doc.fwx?rgn=18412)). In accordance with this Law, «a document in an electronic display form (electronic document) is an electronic message that has attributes to identify it as a document».

On July 19, 2017, the new Law of the Kyrgyz Republic On Digital Signature was adopted (<http://cbd.minjust.gov.kg/act/view/ru-ru/111635?cl=ru-ru>). In accordance with Clause 1, Article 6 of this Law, «Information in electronic form, signed by a qualified electronic signature, is recognized as an electronic document equivalent to a paper document signed by handwritten signature, unless it is prohibited by laws or other regulatory legal acts to compile such a document in electronic form».

On December 14, 2004, the National Assembly of the Republic of Armenia adopted the Law «On Electronic Document and Electronic Digital Signature» ([http://base.spinform.ru/show\\_doc.fwx?rgn=29381](http://base.spinform.ru/show_doc.fwx?rgn=29381)). This Law enshrines the following concept of an electronic document – this is information or a message submitted in electronic form.

It should be noted that in Georgia the concept of «electronic document» was first enshrined in the Law of Georgia «On Electronic Signatures and Electronic Documents» dated March 14, 2008 No.

5927-Ic (expired). According to the provisions of this Law, an electronic document was defined as «electronic, optical or written using other similar means written information confirming a fact of legal significance or a fact that does not have legal significance» (<https://matsne.gov.ge/com/document/download/20866/4/en/pdf>).

Subsequently, on April 27, 2017, the new Law of Georgia No. 639-IIc «On Electronic Document and Reliable Electronic Service» was adopted (<https://matsne.gov.ge/ru/document/download/3654557/0/en/pdf>). In accordance with Article 2 of this Law, an electronic document is a combination of textual, audio, visual or audiovisual information or (and) data stored in electronic form.

## Conclusion

Based on the analysis of the current legislation in the field of electronic document management, we came to the conclusion that significant results have been achieved in international law on uniformity in the regulation of electronic exchange of information, not only by unifying the rules on electronic document management, but also by self-regulation directly by parties to contracts on exchange of information using electronic means. Also, these results have been achieved through the adoption of I standards and laws on electronic document and digital signature.

In Kazakhstan, the law that regulates relations in the field of electronic document was adopted by January 7, 2003 – the Law of the RK «On electronic document and electronic digital signature». The definition of an electronic document enshrined in domestic law is more specific: it is a document in which information is presented in electronic digital form and verified by electronic digital signature.

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Summing up the above, we want to note that in international private law significant results have been achieved on uniformity in the regulation of electronic exchange of information.

Thus, electronic document management is actively being introduced into the information and documentation processes of the modern international community. However, as this process proceeds, new problems are identified that need to be addressed as soon as possible.

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