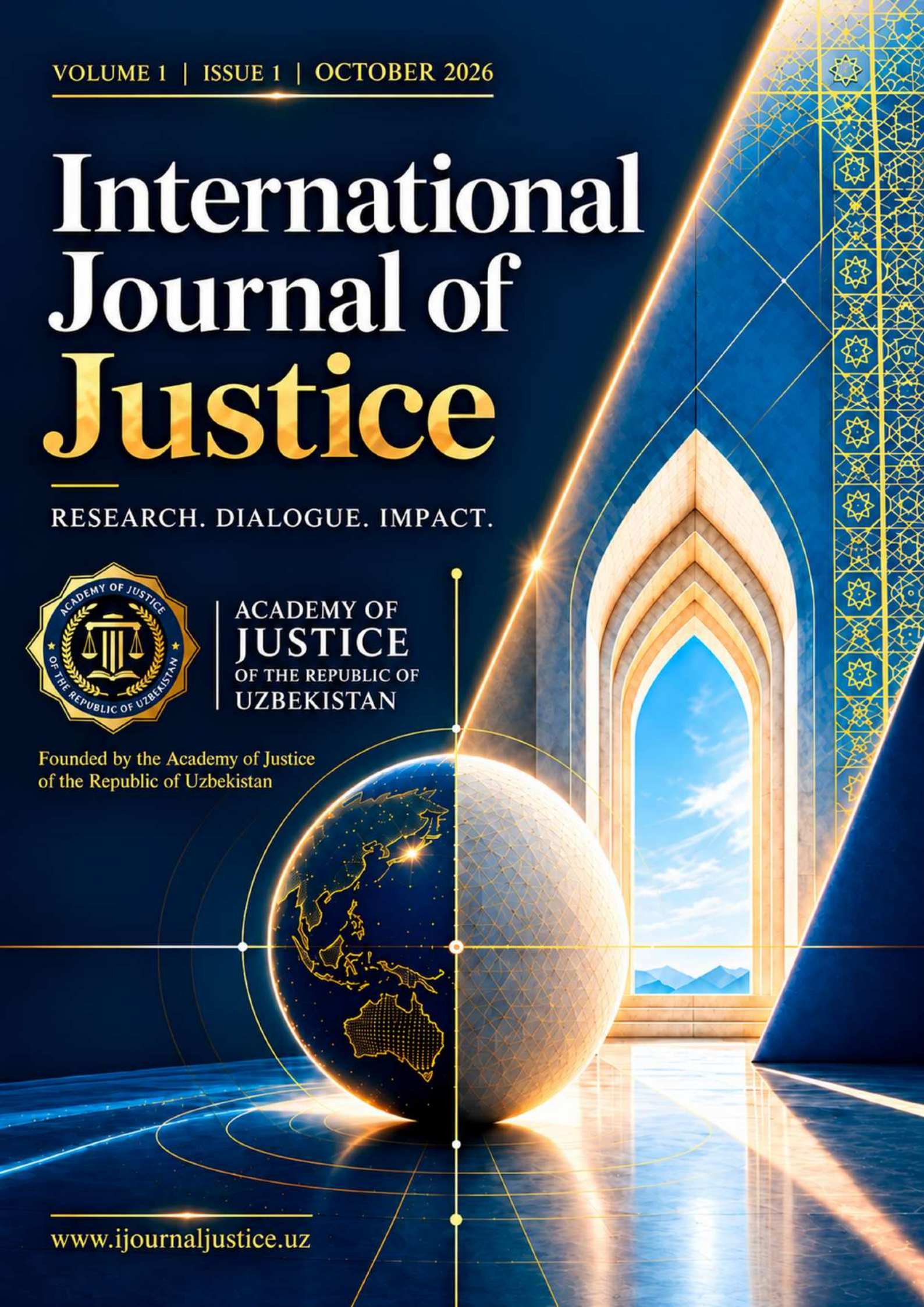
VOLUME 1 | ISSUE 1 | OCTOBER 2026

International Journal of Justice

RESEARCH. DIALOGUE. IMPACT.

ACADEMY OF JUSTICE OF THE REPUBLIC OF UZBEKISTAN

Founded by the Academy of Justice of the Republic of Uzbekistan



www.ijournaljustice.uz

EDITORIAL BOARD

International Journal of Justice



EDITOR-IN-CHIEF

Sherzod Yoqubjonovich Abduqodirov

Rector of the Academy of Justice of the Republic of Uzbekistan

Doctor of Sciences in Law (DSc), Associate Professor



DEPUTY EDITOR-IN-CHIEF

Nodirbek Saparbaevich Salaev

Vice-Rector of the Academy of Justice of the Republic of Uzbekistan

Doctor of Sciences in Law (DSc), Professor

MEMBERS OF THE EDITORIAL BOARD



Anselmo Reyes

Doctor of Philosophy (PhD) in Law, Professor

Judge of the Singapore International Commercial Court



Dilshod Urinbaevich Aripov

Doctor of Sciences in Law (DSc), Professor

Vice-Rector of the Academy of Justice of the Republic of Uzbekistan



Akrom Ikromovich Toshpulatov

Doctor of Sciences in Law (DSc), Professor

Director of the Parliamentary Research Institute under the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan



Shakhriyor Bakhtiyorovich Bakaev

Doctor of Philosophy (PhD) in Law

Responsible Official of the Administration of the President of the Republic of Uzbekistan



Borzu Sabahi

Doctor of Sciences in Law (DSc), Professor

International Arbitrator



Dilshod Shavkatovich Israilov

Doctor of Philosophy (PhD), Associate Professor

Head Specialist of the Department for Coordination of Research Activities of the Academy of Justice of the Republic of Uzbekistan



Yesemurat Sultamuratovich Kanyazov

Candidate of Legal Sciences in Law (PhD)

Director of the Institute for Retraining and Advanced Training of Legal Personnel under the Ministry of Justice of the Republic of Uzbekistan



Yevgeniy Vyacheslavovich Kolenko

Doctor of Philosophy (PhD), Professor

First Deputy Head of the Law Enforcement Academy of the Republic of Uzbekistan



Krisztina Karsai
Doctor of Sciences in Law (DSc), Professor
Head of the Institute of Criminal Law and Criminal Sciences at the University of Szeged



Lorenzo Mateo Bujosa Vadell
Doctor of Philosophy (PhD) in Law, Professor
Professor at the University of Salamanca



Maged Mamdouh Kamel Shebaita
Doctor of Philosophy (PhD), Professor
International Arbitrator, Doctoral Candidate at the University of London



Ivan Georgievich Nikonov
Doctor of Philosophy (PhD) in Law
Responsible Official of the Administration of the President of the Republic of Uzbekistan



Malikakhon Pirnazarovna Kalandarova
Doctor of Philosophy (PhD), Associate Professor
Deputy Chairperson of the Supreme Court of the Republic of Uzbekistan



Islambek Rustambekovich Rustambekov
Doctor of Sciences in Law (DSc), Professor
Vice-Rector of Tashkent State University of Law



Sakari Kristian Melander
Doctor of Sciences in Law (DSc), Professor
Professor at the University of Helsinki



Khurshid Primkulovich Sadikov
Judge of the Supreme Judicial Council of the Republic of Uzbekistan



Sławomir Marek Redo
Doctor of Sciences in Law (DSc), Professor
Chairperson of the Expert Council for the Development of Scientific Research at the Faculty of Law and Administration



Vigita Vėbraitė
Doctor of Philosophy (PhD) in Law, Professor
Professor at Vilnius University



MANAGING EDITOR
Azamjon Rasuljon ugli Kambaraliev
Head Specialist at the Academy of Justice of the Republic of Uzbekistan

CONTENTS

IMPROVING THE INSTITUTION OF APPEALS: TIME LIMITS, RESPONSE QUALITY, MONITORING **10**
Achilova Liliya Ilkhomovna; Rozmetova Asal Anvarzoda

LEGAL ASPECTS OF INVESTIGATIVE JOURNALISM **18**
Jahonov Shohruh Shuhrat ugli

LEGAL BASIS OF CIVIL SOCIETY INSTITUTIONS IN THE LEGISLATION OF THE REPUBLIC OF UZBEKISTAN **25**
Sharipov Asrorjon Safar ugli

DIGITAL TRANSFORMATION OF INTERNATIONAL COMMERCIAL ARBITRATION IN UZBEKISTAN: LEGAL AND INSTITUTIONAL PROSPECTS **30**
Otakhonov Foziljon Khaydarovich

THE LEGAL NATURE OF SUBSIDIARY LIABILITY IN INSOLVENCY PROCEEDINGS INVOLVING AGRICULTURAL BUSINESS ENTITIES **39**
Rakhmatjon Tojinorovich Berdiyarov

CIVIL LAW ASPECTS OF GOODS DELIVERY BY SELF-EMPLOYED COURIERS **49**
Ruzinazarov Shukhrat Nuralievich

NATIONAL AND INTERNATIONAL EXPERIENCE IN LEGAL PROTECTION OF A COMPANY NAME: IMPROVING THE LEGISLATION OF UZBEKISTAN **63**
Allayarova Maftuna Almardanovna

ORGANIZATIONAL AND LEGAL MECHANISMS FOR COMPENSATION OF CONSTRUCTION CONTRACT DAMAGES **69**
Donayev Abduqodir Haydarovich

JURISDICTION AND VENUE OF CIVIL CASES ARISING FROM INHERITANCE RELATIONS: A NATIONAL AND FOREIGN ANALYSIS **76**
Soliyeva Kamola Rustamjon-qizi

ISSUES OF USING COURT NOTICES IN ENSURING THE OPENNESS OF CIVIL PROCEEDINGS IN COURTS **84**
Sabirov Erkinjon Kuchkarbaevich

DIGITAL EVIDENCE IN SUPPLY-CONTRACT DISPUTES BEFORE ECONOMIC COURTS: AUTHENTICATION, INTEGRITY AND EVIDENTIARY RISK IN UZBEKISTAN **91**
Mahmudova Saida Rayimjonovna

CONTENTS

FROM HUMAN CAPITAL TO INSTITUTIONAL TRANSFORMATION: A NEW STAGE IN THE STRATEGIC DEVELOPMENT OF THE JUDICIAL PERSONNEL TRAINING SYSTEM 104
Aripov Dilshod Urinbaevich

THE ROLE OF INTERNATIONAL STANDARDS IN GOVERNING ARTIFICIAL INTELLIGENCE IN JUDICIAL SYSTEMS: A COMPARATIVE AND CRITICAL ANALYSIS 109
Sadikov Khurshid Primkulovich

INDEPENDENCE — A SOLID FOUNDATION OF JUSTICE AND HUMAN DIGNITY (35 years of the evolution of the judicial and legal system of the Republic of Uzbekistan) 117
Israilov Dilshod Shavkatovich

INSTITUTIONAL MODELS OF JUDICIAL QUALIFICATION BOARDS: INTERNATIONAL STANDARDS AND FOREIGN EXPERIENCE 128
Jamolov Azizjon Nodir ugli

THE DEATH OF FREE WILL. WHO BEARS CULPABILITY WHEN ARTIFICIAL INTELLIGENCE INDUCES A PERSON TO COMMIT A CRIME? 140
Salaev Nodirbek Saparbaevich

ON EUROPEAN CRIMINAL-LAW INTEGRATION – FROM MUTUAL RECOGNITION TO LIMITED SUPRANATIONAL CRIMINAL POWER 148
Krisztina Karsai

CRIMINAL LIABILITY OF OFFICIALS OF NON-GOVERNMENTAL COMMERCIAL ORGANIZATIONS: PROBLEMS OF THEORY AND PRACTICE 158
Akramova Muazzam Turdikul qizi

DISTINGUISHING OFFENCES AGAINST SEXUAL FREEDOM FROM RELATED OFFENCES IN UZBEKISTAN 162
Achilov Izzat Tulkinovich

CRIMINAL-LAW MEASURES AGAINST THE LEGALIZATION OF PROCEEDS OBTAINED THROUGH MISAPPROPRIATION OR EMBEZZLEMENT: QUALIFICATION, EVIDENCE AND ASSET RECOVERY 170
Sadullaev Bokhodir Oybekovich

CONCEPT OF HELPLESSNESS AND ITS SIGNIFICANCE IN THE QUALIFICATION OF CRIMES 178
Khalilova Zarnigor Zafar qizi

LEGAL SIGNIFICANCE OF THE INSTITUTION OF CRIMINAL RECORDS IN PROTECTING HUMAN RIGHTS 182
Yoqubjonov Omonjon Burkhonjon ugli

CONTENTS

THE APPLICATION OF CRIMES WITH BLANKET NORMS: CURRENT STATUS AND ISSUES 189
Pulatov Bekzod Adilbaevich

THE FORMATION AND DEVELOPMENT OF THE INSTITUTION OF CRIMINAL LIABILITY IN THE FIELD OF PUBLIC PROCUREMENT: A HISTORICAL-LEGAL ANALYSIS 202
Shukurova Shahnoza Mukumjonovna

ATTORNEY'S PARTICIPATION IN THE PRE-TRIAL STAGE OF CRIMINAL PROCEEDINGS: LEGAL AND PRACTICAL ASPECTS 214
Medetbaeva Aksungul Sharapatdin kizi

INTERNATIONAL COOPERATION IN OBTAINING ELECTRONIC EVIDENCE: THE EUROPEAN PRODUCTION AND PRESERVATION ORDERS 221
Bujosa Vadell, Lorenzo Mateo

COOPERATION BETWEEN THE SUBJECTS OF INVESTIGATION IN CROSS-BORDER INTERNET FRAUD CASES 230
Khabibiddinov Nodirjon Musinjon ugli

PROBLEMS OF PROCEDURAL REALITY IN CRIMINAL PROCEEDINGS 238
Aykhan Khankishi Rustamzade, Matanat Pasha Asgarova

DETENTION OF FOREIGN NATIONAL PRISONERS IN PENITENTIARY INSTITUTIONS: A COMPARATIVE ANALYSIS OF INTERNATIONAL PRACTICES AND NATIONAL LEGISLATION 246
Rikhsimov Komron Abrorovich

CRIMINALISTIC FOUNDATIONS FOR INTEGRATING GAIT IDENTIFICATION WITH FORENSIC PORTRAIT EXAMINATION 249
Nizomova Shahrigul Karimboy qizi

INTERNATIONAL LAW CRISIS: UN PEACE OPERATIONS AND INSTITUTIONAL REFORM 258
Kudaybergenov Bakhtiyar Abdumajit-ugli

ARTIFICIAL INTELLIGENCE AND CHILDREN'S RIGHTS: PROTECTION OPPORTUNITIES AND EMERGING LEGAL RISKS 267
Ergashev Gayrat Shavkatovich

ACTIVITIES OF INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS IN THE FIELD OF HUMAN RIGHTS 276
Nosirova Marjona Negmat kizi

Academy of Justice of the Republic of Uzbekistan
International Journal of Justice

PROBLEMS OF PROCEDURAL REALITY IN CRIMINAL PROCEEDINGS

Aykhan Khankishi Rustamzade
Doctor of Law, Professor, Dean of the Faculty of Economy and Law,
National Aviation Academy, Baku, Republic of Azerbaijan
E-mail: arustamzde@naa.edu.az
ORCID ID: 0000-0002-9410-960X



Matanat Pasha Asgarova
Doctor of Legal Sciences, Professor, Head of the Department
of Criminal Procedure, Criminalistics and Forensic Examination,
Academy of Justice of the Ministry of Justice of the
Republic of Azerbaijan, Baku, Azerbaijan
E-mail: matanatasgarova@yahoo.com
ORCID ID: 0000-0003-1419-9519



Abstract. *The relevance of this study arises from the fact that circumstances established by a court are not a direct reflection of a past event but a model constructed from evidence obtained, examined and assessed through lawful procedures. The article aims to clarify the concept of procedural reality, explain its relationship with factual reality and develop criteria for minimising the illusion of truth. It applies philosophical-legal, systemic, formal-legal and comparative methods, together with interpretation of criminal procedure rules and the case law of the European Court of Human Rights. The study substantiates the normative conditioning, evidentiary mediation, constructive and selective character, adversarial dependence and epistemic limitations of procedural reality. Comparison of Azerbaijani and Uzbek legislation demonstrates that an orientation towards establishing the truth complements the guarantee that irreducible doubts must be interpreted in favour of the accused. The results may be used to improve standards for reasoned judicial decisions, procedures for verifying digital evidence and safeguards for remote participation. The article concludes that minimising the illusion of truth requires examination of alternative scenarios, genuine equality of arms and externally reviewable reasoning supporting the court's inner conviction.*

Keywords**:** *criminal procedure; procedural reality; factual reality; illusion of truth; evidence; judicial conviction; digital evidence; fair trial.*

Introduction

The problem of truth remains central to criminal proceedings because a court addresses an event in the past that has already ended and cannot be perceived directly. Factual circumstances are reconstructed from traces and statements obtained, presented and examined in accordance with the law. Judicial knowledge therefore depends not only on the substance of information but also on the rules governing its acquisition, admissibility, adversarial testing and reasoned assessment.

In this context, factual reality must be distinguished from procedural reality. The former comprises events, actions and relationships that actually existed. The latter is the legally significant model of those circumstances accessible to justice. This distinction does not imply abandoning the pursuit of reliable fact-finding; it helps identify the conditions under which the judicial model approaches reality and the reasons why it may become distorted.

M. Damaška writes: "party control over proof taking is much less crucial to the conflict-solving process than is party control over the definition of factual issues" [1, p. 121]. The passage draws attention to a practical point: the allocation of procedural roles shapes the framework in which facts are established. W. Twining likewise expressly includes "all the main types of proceedings under the jurisdiction of adjudicative bodies and all stages in such proceedings" within the scope of analysis [2, p. 223]. Evidence should therefore be assessed in the context of the type and stage of the proceedings in which it was obtained and used.

P. Roberts warns against "neglecting foundational features of criminal procedure, including the presumption of innocence, the privilege against self-incrimination and the right to a fair trial" [3, p. 643]. Roberts's warning connects the epistemic aims of proof with procedural guarantees and cautions against examining either in isolation.

A.R. Mackor and P.J. van Koppen state: "The scenario theory calls a piece of evidence that one scenario can explain better than the others a discriminating fact" [4, p. 225]. The prosecution account must therefore be tested against alternative explanations and facts capable of distinguishing between competing versions.

F. Zenker stresses that "effective de-biasing measures must simultaneously address aspects of cognition, motivation, and technology" [5, p. 405]. A formal appeal to impartiality is therefore insufficient. Effective safeguards must address the decision-maker's reasoning and motivation, together with the organisational and technological environment. Even so, procedural reality remains underdeveloped as an integrated model of how judicial knowledge is formed, especially in the digital environment.

The influence of form is especially apparent in remote participation. The European Court of Human Rights has held that participation by video link is not in itself incompatible with a fair trial, provided that the participant can follow the proceedings, be heard without technical impediments and communicate effectively and confidentially with counsel [6, § 98]. The Court also considers whether the measure pursues a legitimate aim and whether its application complies with due process [7, § 67]. The technological environment may therefore affect not only the form of participation but also the quality of evidentiary perception.

This article defines procedural reality as a legal-epistemological category and examines the mechanisms through which it is constructed. It also proposes criteria designed to prevent a procedurally formalised version of events from turning into an illusion of truth. The analysis clarifies the philosophical and legal foundations of judicial cognition, compares Azerbaijani and Uzbek approaches, identifies the causes of divergence between the two levels of reality and formulates practical safeguards for reducing that divergence.

Materials and Methods

The materials examined comprise the criminal procedure legislation of the Republic of Azerbaijan and the Republic of Uzbekistan, judgments of the European Court of Human Rights, and scholarship on evidence, legal epistemology, cognitive bias and digital forensics. The object of analysis is the regularity with which factual information is transformed into a legally relevant basis for a procedural decision.

The philosophical-legal method was used to distinguish truth, factual reality and procedural reality. Systemic and structural-functional analysis helped to identify the elements of judicial reconstruction and the relations between them. The formal-legal method was applied to the rules governing proof and evidentiary assessment, while the comparative method was used to examine the legislative emphases of the two states. The conclusions were then tested against fair-trial requirements in the case law of the European Court. As the study is normative and conceptual, it does not measure statistical relationships. The proposed criteria will therefore need subsequent empirical testing against judicial case files.

Results

3.1. From Philosophical Truth to Judicial Reconstruction

The correspondence conception of truth links the truth of knowledge to its conformity with reality. Aristotle writes that "he who thinks the separated to be separated and the combined to be combined has the truth" [8, Book IX, Chapter 10, 1051b3–5]. Kant defines truth as "the accordance of the cognition with its object" [9, p.49]. This definition supports the view that a procedurally established conclusion may be regarded as true only insofar as it corresponds to the circumstances it purports to reconstruct. K. Popper, however, emphasises the inherent limitation of human knowledge: "Our knowledge can only be finite, while our ignorance must necessarily be infinite" [10, p. 28]. These propositions mean that, in criminal proceedings, a reasoned judicial conclusion seeks correspondence with the event but is not identical to direct perception of that event.

In the Islamic legal and philosophical tradition, the concept of haqq is particularly important, combining the ontological dimension of reality, the epistemological dimension of truth and the normative dimension of justice. H. Arvas stresses that haqq "takes place in Islamic Law as the basic and objective expression of normative principles" [11, p. 333]. This formulation links truth not only to a description of reality but also to normative justice. The Quran uses haqq within the semantic field of truth, reality, right and justice: "It is He who created the heavens and earth in truth" (Al-An'am, 6:73); "He created the heavens and the earth in truth" (An-Nahl, 16:3); "He created the heavens and the earth in truth. Indeed in that is a sign for the believers" (Al-'Ankabut, 29:44); and "O mankind, the Messenger has come to you with the truth" (An-Nisa, 4:170) [12]. For justice, this underscores that the reliability of a conclusion cannot be separated from the fairness of the procedure through which it was reached.

Judicial cognition is therefore a process of reconstruction: legally significant circumstances are restored from surviving traces under conditions of incomplete information, competing interpretations and normative constraints. Procedural reality is not a substitute for factual reality but the form in which factual reality becomes legally cognisable to the court.

3.2. The Concept and Features of Procedural Reality

The term procedural reality is used in legal scholarship to describe a distinct level of legal reality produced by procedural relationships, decisions and forms. A.A. Gibadullin writes: "A binary opposition that examines a phenomenon from the standpoint of its real and foundational fundamentality, as well as

from the standpoint of its illusory nature, proves to be an excellent method for thorough study" [13, pp. 156–157]. In evidentiary analysis, this proposition invites two perspectives on procedural reality. It is a legally operative construction, yet it may also create an illusion of truth. Procedural reality is therefore defined here as a legally significant model of the circumstances of a criminal case, formed in accordance with law and based on verified evidence, adversarial examination of information and the reasoned assessment of an authorised decision-maker.

Normative conditioning is the first feature of this model. Legal significance attaches not to all available information, but only to information obtained and examined lawfully. Evidentiary mediation is the second: a circumstance enters the basis of a decision through a procedural source and its verification. The model is also constructive because it develops through competing scenarios, the identification of connections and a choice between explanations. Evidence, logic and the duty to give reasons set the limits of that construction.

A further feature is selectivity, which results from the loss or inaccessibility of traces as well as from the rules of relevance and admissibility. Excluding unlawfully obtained information is not merely an obstacle to knowledge. It defines the lawful limits of state activity. The model is also shaped by adversarial procedure: the parties offer competing interpretations, and genuine equality of procedural opportunities turns their comparison into a form of critical testing.

Epistemic limitation follows from the impossibility of reproducing a past event in absolute completeness and from the fallibility of memory and perception. Procedural reality also depends on the conditions in which information is perceived, including the sequence of examination, translation, visualisation and remote participation. Taken together, these features explain why factual and procedural reality may coincide, partially overlap or diverge.

3.3. Formation Mechanisms and Comparative-Law Emphases

Procedural reality is formed through the acquisition, recording and verification of information, its presentation by the parties, direct examination and final assessment. An error at an early stage may be reproduced in later decisions and acquire the appearance of a confirmed fact. The central mechanism is evidentiary assessment, which connects the factual content of evidence with the legal criteria governing its use.

Under Article 85 of the Criminal Procedure Code of the Republic of Uzbekistan, approved by Law No. 2013-XII of 22 September 1994, proof comprises the collection, verification and assessment of evidence for the purpose of establishing the truth concerning circumstances relevant to the lawful, reasoned and fair resolution of a case. Article 95 links inner conviction to a thorough, comprehensive, complete and objective examination, assessment of each item of evidence for relevance, admissibility and reliability, and assessment of the body of evidence for sufficiency [14].

Uzbek criminal procedure scholarship supports this normative emphasis. Kh. Mamatkulova writes: "The entire essence of proof is directed towards collecting, verifying and assessing evidence, which ultimately serves to establish the truth" [15, p. 177]. She further states: "The knowledge obtained must be substantiated and reasoned" [15, p. 180].

Taken together, these statements show that an orientation towards truth requires not the formal accumulation of materials but a rationally reviewable justification of the conclusion.

Article 138.1 of the Criminal Procedure Code of the Republic of Azerbaijan, approved by Law No. 907-IQ of 14 July 2000, defines proof as obtaining, verifying and assessing evidence for the lawful, reasoned and fair resolution of the charge. Under Articles 145.1–145.2, each item of evidence is assessed for relevance, admissibility and reliability, the body of evidence for sufficiency, and inner conviction is formed through a comprehensive, complete and objective examination guided by law and conscience. Article 145.3 requires irreducible doubts to be interpreted in favour of the suspect or accused [16].

The two models are complementary rather than conflicting. Uzbek law places clearer emphasis on the pursuit of truth and the active completeness of inquiry. Azerbaijani law, by contrast, states more explicitly the legal consequence of unresolved uncertainty. The pursuit of reliability guides the process of proof, while the rule on doubt sets the limit of an incriminating conclusion. Procedural reality ultimately takes shape in a reasoned decision that discloses its evidentiary logic instead of relying on the court's subjective confidence.

Discussion

4.1. Factors Causing Divergence Between Factual and Procedural Reality

Divergence between the two levels of reality may result from loss of traces, limited technical capacity, the cross-border location of data, errors of perception and memory, professional stereotypes and accusatorial bias. Once one account is accepted too early, confirmation bias may lead the decision-maker to judge new information mainly by its consistency with the chosen hypothesis. Objectivity therefore requires deliberate testing of alternative explanations, not merely the neutral accumulation of material.

Remote participation changes the communicative environment of the court. Audio delay, a restricted field of vision, inability to observe participants' reactions or to communicate confidentially with counsel may reduce effective participation and distort the perception of testimony. A remote format is acceptable only where the connection is stable, full audiovisual contact and access to the materials are ensured, and technical impediments can be remedied immediately.

Digital evidence creates particular risks. Its apparent precision may conceal uncertainty concerning provenance, context, integrity and the method of extraction. R. Stoykova identifies "the inappropriate and inconsistent use of technology; … old procedural guarantees, which are not adapted …; … the lack of reliability testing in digital forensics practice" [17, p. 1]. The risks identified by Stoykova are not confined to technical error. They also reflect a failure to adapt procedural guarantees to the digital environment.

N. Sunde and I.E. Dror observe: "DF work involves many judgements and decisions that require interpretation and subjectivity; … observations were affected by the biasing contextual information" [18, p. 1]. Technology therefore does not remove human judgment from the examination or eliminate the need to shield examiners from irrelevant contextual information.

In a separate empirical study, N. Sunde found: "34% applied no techniques to maintain their objectivity during the analysis. … 38% did not use any techniques to examine or control

evidence reliability" [19, p. 1]. The findings suggest that dedicated safeguards for objectivity and reliability control are not yet routine.

G. Horsman identifies the following sources: "Client errors; Wider investigative/forensic team errors; Practitioner errors; Tools/instruments errors; Method errors; Trace errors" [20, pp. 3–9]. Errors can thus enter the process at any stage, beginning with the initial instruction or digital trace and extending to the method, tool, examiner and wider investigative system.

An algorithmic result depends on the model, training data, thresholds and error rate. The fact that a result was machine-generated does not by itself turn it into a fact of the case. If the methodology is unavailable to the parties, the conclusion cannot be challenged in a meaningful way. At the same time, exclusion of unlawfully obtained information is not a defect in cognition but a legal boundary on state activity. Divergence also arises from inequality of arms when the defence cannot examine the source data, retain an expert or present an alternative opinion.

4.2. The Illusion of Truth and the Illusion of Proof

The illusion of truth arises when a procedurally constructed model is equated with factual reality merely because it is embodied in a state decision or appears logically complete. Its cause is not the mediated character of judicial cognition itself but the loss of critical distance between the evidentiary construction and the reconstructed event.

In practice, this produces an illusion of proof. A body of evidence is treated as sufficient despite unresolved contradictions, gaps in causal reasoning, untested scenarios or doubtful provenance. The quantity of evidence may create a false impression of mutual corroboration even where several sources derive from a single initial error. In the digital environment, the volume of data and technological complexity may create a similar but unwarranted appearance of objectivity.

In the case law of the European Court of Human Rights, proof may follow from "sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact" [21, § 282]. This approach is not identical to the domestic standard for proving guilt, but it highlights the need to test the strength, clarity and coherence of the body of evidence.

L. Ross writes: "every conviction must satisfy a relatively demanding standard so that guilt can be rationally believed by the observer, but the requisite standard should vary with the risks associated with passing a positive judgement" [22, p. 1091]. Ross thus distinguishes the minimum requirement of a rationally justified finding of guilt from the particular stringency of the applicable standard. The latter must take account of the risk and consequences of wrongful conviction rather than being reduced to the decision-maker's subjective confidence alone.

4.3. Criteria for Minimising Unjustified Divergence

The first criterion requires alternative scenarios to be examined. A judicial decision should identify the explanations considered, the information supporting them and the reasons for rejecting them. Genuine equality of arms forms the second criterion. The defence must have access to the materials needed to test the prosecution case, question experts, initiate examinations and obtain specialist assistance. Any refusal of an application requires individualised reasons.

The third criterion concerns the external reviewability of inner conviction. The court must explain the role of each key item of evidence, its relationship to other materials, the reasons for finding it admissible and reliable, and the way in which contradictions and doubts were resolved. Giving reasons turns subjective confidence into a legally reviewable result.

The fourth criterion concerns digital and algorithmic evidence: the discovery, copying, extraction, transfer, storage and analysis of data should be documented; the tools and parameters used should be recorded; the original medium or a verifiable image should be preserved; and repeat analysis should be possible. For algorithmic results, the system's purpose, limitations, input data, error probability and applicability to the individual case should be disclosed.

Effective remote participation forms the fifth criterion. It requires advance testing of the connection, the ability to see and hear the proceedings, confidential consultation with counsel and suspension of the hearing if a material technical defect arises. The sixth criterion is institutional recognition of uncertainty. Irreducible doubt is a legally significant outcome of examination, not a professional failure to be concealed by assumptions.

Conclusion

Procedural reality is an autonomous legal-epistemological category. It is a lawfully constructed model of the circumstances of a criminal case, based on verified evidence, adversarial examination of information and reasoned assessment. Facts acquire procedural significance through this model, although the model never becomes identical to factual reality.

Its principal features are normative conditioning, evidentiary mediation, constructiveness, selectivity, adversarial dependence, epistemic limitation and dependence on conditions of perception. A comparison of Uzbek and Azerbaijani legislation shows that the orientation towards truth and the interpretation of irreducible doubt in favour of the accused must operate together. The former requires exhaustive lawful examination; the latter prevents unresolved uncertainty from being used against the person.

An illusion of truth arises when the procedural model is unjustifiably identified with the event itself. An illusion of proof arises when an apparently coherent, yet incomplete or dependent, body of evidence is treated as sufficient. The risk is intensified by cognitive bias, inequality of arms, technical limitations of remote participation, and opacity in the provenance and algorithmic analysis of digital evidence.

In practical terms, uniform requirements should be established for the structure of evidentiary assessment. They should cover the matters to be proved, established and unestablished circumstances, the assessment of key sources, analysis of their interrelationship, testing of alternative scenarios, consideration of the parties' arguments, an explanation of how contradictions were resolved and a conclusion on sufficiency. This model does not restrict freedom of assessment; it makes judicial conviction rationally reviewable and reduces unjustified divergence between factual and procedural reality.

References

1. Damaška, M. (1986). The Faces of Justice and State Authority: A Comparative Approach to the Legal Process. New Haven: Yale University Press. 335 p.

2. Twining, W. (2006). Rethinking Evidence: Exploratory Essays. 2nd ed. Cambridge: Cambridge University Press. 533 p.

3. Roberts P. Theorising Evidence Law. Oxford Journal of Legal Studies, 2023, vol. 43, no. 3, pp. 629–649. doi: 10.1093/ojls/gqad007.

4. Mackor A.R., van Koppen P.J. The Scenario Theory about Evidence in Criminal Law. In: Dahlman C., Stein A., Tuzet G. (eds.). Philosophical Foundations of Evidence Law. Oxford: Oxford University Press, 2021, pp. 215–230. doi: 10.1093/oso/9780198859307.003.0016.

5. Zenker F. De-Biasing Legal Factfinders. In: Dahlman C., Stein A., Tuzet G. (eds.). Philosophical Foundations of Evidence Law. Oxford: Oxford University Press, 2021, pp. 395–410. doi: 10.1093/oso/9780198859307.003.0027.

6. Sakhnovskiy v. Russia [GC], no. 21272/03, Judgment of 2 November 2010. URL: https://hudoc.echr.coe.int/eng?i=001-101568 (accessed: 22.08.2026).

7. Marcello Viola v. Italy, no. 45106/04, Judgment of 5 October 2006. URL: https://hudoc.echr.coe.int/eng?i=001-77246 (accessed: 22.08.2026).

8. Aristotle, Metaphysics (written 350 B.C.E.) / translated by W. D. Ross. URL: https://classics.mit.edu/Aristotle/metaphysics.html

9. Kant, I. Critique of Pure Reason / translated by J. M. D. Meiklejohn. New York: Colonial press, –1900.–480 p.

10. Popper, K. (2002). Conjectures and Refutations: The Growth of Scientific Knowledge. London: Routledge. 410 p.

11. Arvas H. Kur'ân'da Hak Kelimesinin Anlam Biçimleri. Mîzânü'l-Hak: İslami İlimler Dergisi, 2020, no. 11, s. 333–355.

12. Holy Quran text & translation. URL: https://quran-online.ru/ (accessed: 22.08.2026).

13. Gibadullin A.A. Protsessual'naya real'nost' [Procedural reality]. Prioritetnye napravleniya nauchnykh issledovaniy. Analiz, upravlenie, perspektivy: sbornik statey Mezhdunarodnoy nauchno-prakticheskoy konferentsii. Moskva, 27 January 2022, part 2, pp. 156–157.

14. Уголовно-процессуальный кодекс Республики Узбекистан: утверждён Законом Республики Узбекистан от 22 сентября 1994 г. № 2013-XII. URL: https://lex.uz/docs/111463

15. Маматкулова Х. Общая характеристика доказывания в уголовном судопроизводстве. Жамият ва инновациялар–Общество и инновации–Society and innovations. 2023, Special Issue 7, pp. 176–181. doi: 10.47689/2181-1415-vol4-iss7/S-pp176-181.

16. Уголовно-процессуальный кодекс Азербайджанской Республики: утверждён Законом Азербайджанской Республики от 14 июля 2000 г. № 907-IQ. URL: https://continent-online.com/Document/?doc_id=30420280

17. Stoykova R. Digital evidence: Unaddressed threats to fairness and the presumption of innocence. Computer Law & Security Review, 2021, vol. 42, article 105575. doi: 10.1016/j.clsr.2021.105575.

18. Sunde N., Dror I.E. A hierarchy of expert performance applied to digital forensics: Reliability and biasability in digital forensics decision making. Forensic Science International: Digital Investigation, 2021, vol. 37, article 301175. doi: 10.1016/j.fsidi.2021.301175.

19. Sunde N. Strategies for safeguarding examiner objectivity and evidence reliability during digital forensic investigations. Forensic Science International: Digital Investigation, 2022, vol. 40, article 301317. doi: 10.1016/j.fsidi.2021.301317.

20. Horsman G. Sources of error in digital forensics. Forensic Science International: Digital Investigation, 2024, vol. 48, article 301693. doi: 10.1016/j.fsidi.2024.301693.

21. Avşar v. Turkey, no. 25657/94, Judgment of 10 July 2001. URL: https://hudoc.echr.coe.int/eng?i=001-59562 (accessed: 22.08.2026).

22. Ross L. Criminal Proof: Fixed or Flexible? The Philosophical Quarterly, 2023, vol. 73, no. 4, pp. 1077–1099. doi: 10.1093/PD/PDad001.

