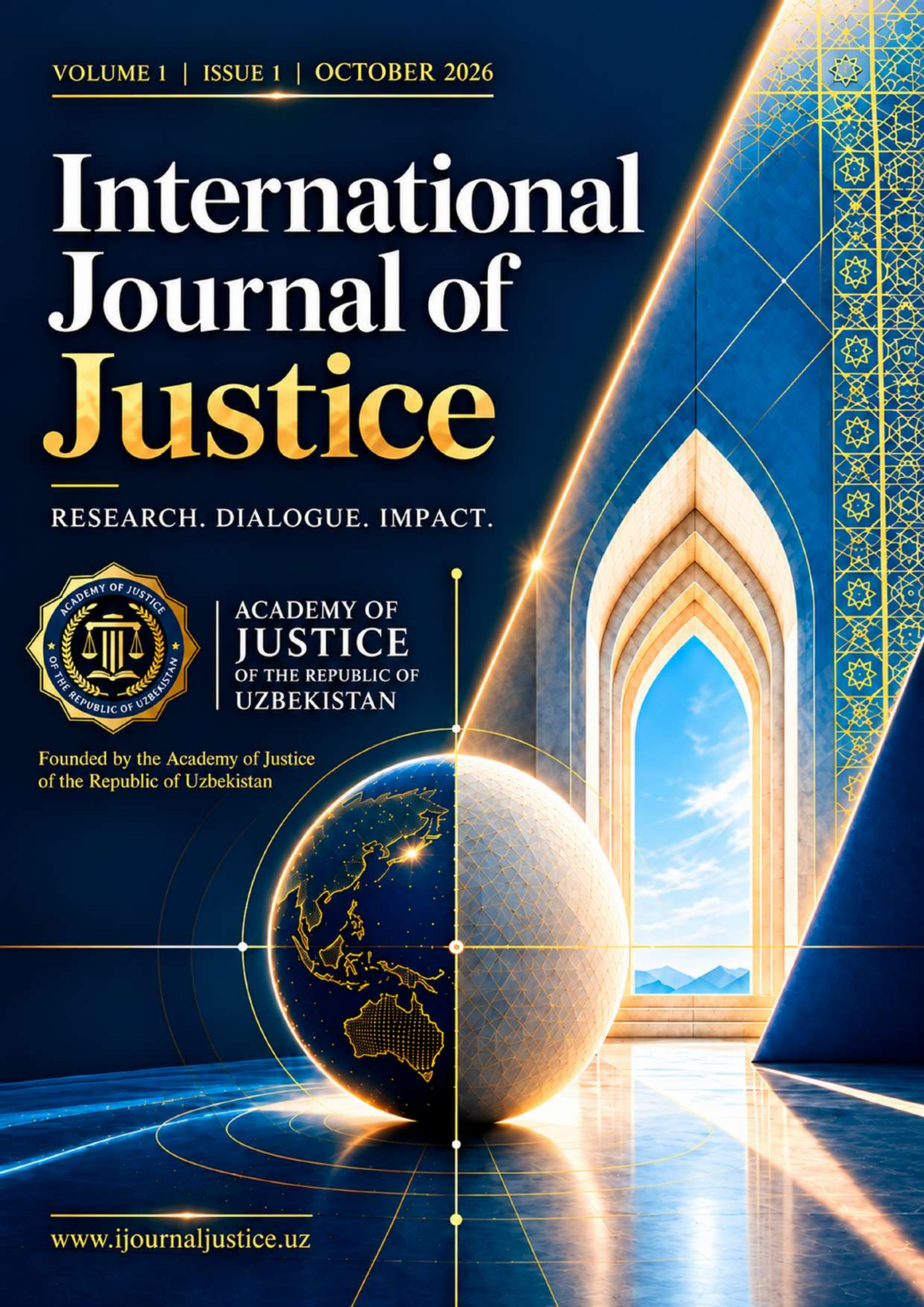
VOLUME 1 | ISSUE 1 | OCTOBER 2026

International Journal of Justice

RESEARCH. DIALOGUE. IMPACT.

ACADEMY OF JUSTICE OF THE REPUBLIC OF UZBEKISTAN

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ADDRESS TO THE INTERNATIONAL ACADEMIC COMMUNITY

Dear colleagues, scholars, and legal professionals!

The Academy of Justice of the Republic of Uzbekistan is pleased to introduce the International Journal of Justice, an international peer-reviewed electronic journal of legal scholarship and practice founded by the Academy, and invites all scholars, researchers, legal practitioners, and educational institutions in the field of law to engage in close cooperation with the Journal.

Pursuant to Presidential Decree No. PD-141 of 21 August 2025, "On Measures to Fundamentally Improve the System of Training Highly Qualified Personnel in the Field of Justice," the Academy of Justice of the Republic of Uzbekistan was established on the basis of the Higher School of Judges under the Supreme Judicial Council of the Republic of Uzbekistan. In addition to training judges and judicial personnel in accordance with international standards, the newly established Academy was entrusted with advancing legal scholarship and strengthening research capacity.

The need to provide a scholarly foundation for these objectives gave rise to the idea of creating, within the Academy, an internationally recognized, English-language academic platform. This initiative was formalized through the Regulations governing the Editorial Office of the International Journal of Justice, which were approved by the Council of the Academy of Justice of the Republic of Uzbekistan. The Journal thus commenced operation as the Academy's official electronic scholarly publication.

The Editorial Board of the International Journal of Justice comprises 18 leading scholars and legal practitioners from nine countries. Its members are affiliated with prestigious higher education institutions, research centers, and international organizations in countries including Finland, Singapore, Poland, the United States of America, Hungary, Spain, Lithuania, and the United Kingdom.

The international members of the Editorial Board include Anselmo Reyes, Judge of the Singapore International Commercial Court (Singapore); Borzu Sabahi, International Arbitrator

(United States of America); Krisztina Karsai, Head of the Institute of Criminal Law and Criminal Sciences at the University of Szeged (Hungary); Lorenzo Mateo Bujosa Vadell, Professor at the University of Salamanca (Spain); Maged Mamdouh Kamel Shebaita, International Arbitrator and Doctoral Candidate at the University of London (United Kingdom); Sakari Kristian Melander, Professor at the University of Helsinki (Finland); Sławomir Marek Redo, Chairperson of the Expert Council for the Development of Scientific Research at the Faculty of Law and Administration (Poland); and Vigita Vėbraitė, Professor at Vilnius University (Lithuania).

The participation of distinguished international scholars, judges, and legal practitioners representing diverse legal systems and academic traditions strengthens the Journal's international profile and contributes to maintaining high standards of academic quality, professional expertise, and scholarly integrity. Their involvement also promotes the exchange of comparative legal knowledge and strengthens academic cooperation between Uzbekistan and the international legal and research community.

The Journal's fundamental purpose is to promote and disseminate in-depth research on pressing issues of law and legal practice at the national and international levels, judicial and legal reforms, and their substantive implications. It serves as an open platform for advancing legal awareness and legal culture; subjecting national legislation to scholarly analysis; identifying conflicting legal provisions and systemic problems in legal practice; and developing evidence-based proposals for their resolution.

One of the principal strategic objectives of the International Journal of Justice is to serve as a distinctive scholarly bridge that contributes to advancing legal research in Central Asia to a new level. The Journal seeks to connect legal scholars, researchers, and practitioners across the region with the international academic community and to create an open academic platform for exchanging advanced research approaches and experience.

As part of its long-term development strategy, the Editorial Board has identified full alignment with international scholarly standards and leading practices in academic publishing as a priority. Accordingly, over the coming years, the Journal plans to progressively meet the criteria required for inclusion in internationally recognized indexing and citation databases, particularly Scopus and Web of Science.

This strategic direction is intended to enhance the Journal's scholarly standing; increase the international visibility and scholarly impact of its publications; broaden the participation of foreign researchers; and strengthen the position of legal research from Central Asia within the international academic landscape.

The Journal's central aim is to bring national experience in judicial and legal reform to the attention of the international scholarly community, while also exploring opportunities to

incorporate into national legislation the leading developments in global legal scholarship and the experience of foreign jurisdictions in lawmaking and law enforcement. In other words, the Journal seeks to serve as a scholarly bridge between national and international legal spheres and to reinforce the principles of justice and the rule of law through research.

The International Journal of Justice is distinguished from comparable publications by the breadth of its scope. It brings together scholarship on political and legal issues in state and societal development; improving lawmaking; developing civil society institutions and priority areas for liberalizing the judicial and legal system; ensuring legality; protecting human rights and freedoms; combating crime and strengthening public order; examining the work of courts and law enforcement bodies; raising the legal awareness and legal and civic awareness of citizens, particularly young people; training highly qualified legal professionals and developing a national school of legal thought; and addressing current issues in the development of international law and the incorporation of its norms into national legislation.

The breadth of the Journal's scope is also reflected in its organizational, legal, and distribution arrangements. The Journal is published electronically in English and is freely accessible to readers in Uzbekistan and internationally. It is accessible both in Uzbekistan and internationally, providing an open platform for national and international scholarly communities. The Journal is published quarterly, with special issues published where appropriate, reflects the Journal's flexible and dynamic structure. The inclusion of highly qualified domestic and international experts on the Editorial Board further strengthens its scholarly capacity and international profile.

The Academy of Justice of the Republic of Uzbekistan is firmly committed to developing the International Journal of Justice as an enduring platform that advances legal scholarship, integrates national and international legal experience, and strengthens the theoretical and scholarly foundations of judicial and legal reform. In this connection, we warmly invite scholars, researchers, legal practitioners, and academic institutions to collaborate with the Journal, submit high-quality research for publication, and contribute to the development of an internationally recognized platform for legal scholarship.

IMPROVING THE INSTITUTION OF APPEALS: TIME LIMITS, RESPONSE QUALITY, MONITORING

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Abstract. *The subject of the study is the procedural regulation of appeals of individuals and legal entities in the Republic of Uzbekistan. The topic is relevant because the technological basis of this work is being renewed through a unified digital platform, whereas the substantive procedural rules have remained essentially unchanged since 2017, so that faster document flow does not by itself improve the outcome. The purpose is to identify the gaps in the current regulation and to justify specific legislative amendments. The work relies on comparative legal, formal legal and systemic structural methods and examines the legislation and practice of Kazakhstan, the Republic of Korea, Germany and Singapore. Four interrelated gaps were established: uniform periods of consideration combined with evaluative grounds for their extension; the absence of normative criteria of a proper answer; the departmental and closed character of supervision; and the absence of a special procedural regime for appeals concerning medical services. On this basis a new wording of Article 28 and three new articles are justified. The results may be used in law-making, in the practice of state bodies and in further research. The proposals form a single system and require no additional budgetary expenditure.*

Keywords: *administrative procedure, citizens' appeals, procedural time limits, response quality, open monitoring, anti-corruption, medical care quality.*

Introduction

The right of appeal is a fundamental political right enshrined in Article 40 of the Constitution of the Republic of Uzbekistan: everyone may submit applications, proposals and complaints to state bodies, self-government bodies, officials and people's representatives, and such appeals must be considered in the manner and within the periods established by law (Constitution of the Republic of Uzbekistan, 2023). Because the constitutional text refers to periods directly, timeliness is part of the content of the right itself, not merely an organizational convenience.

The procedure is set out in the Law "On appeals of individuals and legal entities" (Law No. LRU-445, 2017), built on a single model: identical periods, actions and result requirements for every category of appeal, justified when the task was to overcome divergent departmental practices. The Law has since been modernized piecemeal - Article 24[1] on minors' appeals in 2020 (Law No. LRU-608, 2020), a "helpline" and call centres in May 2026 (Law No. LRU-1144, 2026) - but its procedural core (periods, the content required of an

answer, the model of control) has remained essentially unchanged since 2017.

Meanwhile the operating environment is changing fundamentally. The Address to the Oliy Majlis of 26 December 2025 announced that from 2026 the "Electronic Government" platform is being integrated into a Unified Digital Platform, with artificial intelligence distributing appeals and controlling periods of consideration (President of the Republic of Uzbekistan, 2025); 2026 has also been declared a year of emergency anti-corruption measures, with compliance officers introduced in every department. This is the article's central contradiction: the technological basis of work with appeals is being renewed while the substantive norms remain unchanged. A platform that automates existing rules speeds document flow but does not itself improve the quality of consideration - it moves an unresponsive answer as quickly as a responsive one, so digitalization must accompany, not substitute for, a substantive correction of the procedural norms.

The purpose of the article is to identify the systemic gaps in the procedural regulation of appeals in Uzbekistan and to justify specific amendments to the Law, through four tasks: assessing the system of periods and the grounds for their extension; determining normative criteria of a proper answer and the consequences of non-compliance; justifying a model of open monitoring and public accountability; and justifying a special regime for appeals concerning medical services.

The legal orders examined solve this problem differently. Kazakhstan codifies administrative procedures, strictly limits extension grounds and attaches liability to the extending official (Administrative Procedural Code of the Republic of Kazakhstan, 2020), tracking appeals through the e-Otinish platform. Korea delegates periods for particular categories to subordinate regulation and concentrates the analysis of appeals in a specialized anti-corruption body, treating them as an analytical source, not only a rights-restoration tool (Civil Petitions Treatment Act, n.d.; Anti-Corruption and Civil Rights Commission of the Republic of Korea, n.d.; e-People, n.d.). German law treats administrative inaction beyond a reasonable period as an independent violation of rights giving direct access to the administrative court (Verwaltungsgerichtsordnung, n.d.). Singapore uses a non-normative model in which periods follow service standards, and the main mechanism is keeping the applicant informed (OneService, n.d.). Domestic doctrine has examined the regulation of particular spheres and its sources (Achilova, 2023; Ilhomovna, 2023); since these approaches are heterogeneous - normative and organizational - it must be determined what is receivable into Uzbekistan's system, which sets this research's direction.

Methods

The research proceeded in four stages: examination of the current national regulation - Article 40 of the Constitution (2023); Articles 3, 24[1], 25, 27, 28, 34 and 35 of Law No. LRU-445 (2017); Article 43 of the Code on Administrative Responsibility (1994); Article 985 of the Civil Code (1996); and subordinate acts (Resolution of the Cabinet of Ministers No. 341, 2018); tracing the Law's development from 2017 to 2026 to establish what was modernized and what remained unchanged (Law No. LRU-608, 2020; Law No. LRU-1144, 2026), correlated with the programme documents on digital transformation (President of the Republic of Uzbekistan, 2025); a comparative legal analysis

of Kazakhstan, Korea, Germany and Singapore, establishing for each the model of periods, extension grounds, consequences of violation and control instruments; and analysis of the Anti-Corruption Agency's materials on the "Sector without Corruption" project in the Ministry of Health system (Decree No. DP-6110, 2020; Anti-Corruption Agency of the Republic of Uzbekistan, 2021), from which the proposed wordings were formulated.

The comparative legal method is the basis of the work, since the task is to determine which solutions tested elsewhere are applicable in Uzbekistan rather than to describe the national regulation. Kazakhstan was chosen as the legal order closest to Uzbekistan's tradition; Korea for its normative differentiation of periods combined with a single platform and the anti-corruption use of appeals; Germany because it answers the still-unresolved question of the consequences of a period violation; and Singapore as a counter-example - organizational, not normative - marking the limits of legislative regulation. The formal legal method identified evaluative and blanket formulations in the normative texts and drafted the proposed wordings; the systemic structural method established the interconnections between the gaps; legal modelling produced the concrete article wordings proposed. The object of the research is the relations arising in the receipt, consideration and control of appeals; its subject is the procedural norms on periods, the content required of an answer, monitoring, and the particularities of individual appeal categories.

Results

The Law's development from 2017 to 2026 shows a pronounced imbalance: amendments concerned either individual categories of subjects, as with Article 24[1] on minors (Law No. LRU-608, 2020), or organizational forms of receiving appeals, as with the helpline and call centres (Law No. LRU-1144, 2026). The three elements that determine the outcome of consideration - periods, the content required of an answer, and control - have not been revised, revealing four interconnected gaps.

The first gap: uniform periods with evaluative extension grounds. Under Article 28 an appeal is considered within fifteen days, or up to one month where additional study, verification or document requisition is necessary, extendable in exceptional cases by one further month by the head of the body. The content of "additional study" is undisclosed and no exhaustive list of extension grounds exists, so an evaluative formulation turns an exceptional mechanism into a convenient, externally unverifiable managerial tool; conversely, a simple information request and a complaint needing an on-site inspection and expert examination share the same period, preventing a rational distribution of resources.

The second gap: no normative criteria of a proper answer. Article 27(4) deems an appeal considered once all questions are resolved and answered; part five requires concrete grounds confirming or refuting the applicant's arguments, with references to legislation. The requirement is correctly formulated, but the Law defines neither completeness/reasoning criteria nor the consequences of non-compliance, so an answer assessing none of the arguments is formally counted as compliant. This is aggravated by Article 43 of the Code on Administrative Responsibility (1994), which already penalises the unlawful refusal to consider appeals, unjustified period violations, failure to answer, unlawful decisions and failure to restore violated rights - liability that is formally established but, absent a definition

of a valid extension reason or a proper answer, practically hard to apply.

The third gap: departmental, closed monitoring. Article 34 entrusts monitoring to each body's own head, and Article 35 requires quarterly published generalizations; a subordinate assessment system was approved by Cabinet of Ministers Resolution No. 341 of 7 May 2018 (retitled by Resolution No. 40 of 30 January 2026). Yet this assessment remains departmental, unpublished and not fixed by law; published information is not standardised, lacking comparable indicators - the share of period violations, extension frequency, a satisfaction coefficient, the share of repeat appeals - and no mechanism uses them in managerial decisions. Article 3 defines a "repeat appeal" but the Law does not use it as an indicator of systemic shortcomings.

The fourth gap: no special regime for medical-service appeals. These are considered under the general procedure although the object protected is life and health, where an untimely or formal response may cause lost evidence, deterioration or irreversible harm. Article 25(3) bars forwarding an appeal to the contested body, but there is no special guarantee of independent verification in the medical sphere, no obligation to involve an independent specialist, and no procedure for furnishing the applicant with a departmental expert conclusion.

Four solutions follow, each addressed to one gap and built into the Law's existing architecture.

A new wording of Article 28 would consider appeals needing no additional study, verification, document requisition or another body's conclusion - including information requests, clarification of legislation or official particulars - within seven days, retaining fifteen days for other appeals. Extension would be allowed only on three closed grounds - an on-site inspection, requisitioning documents from other bodies or persons, or an expert examination - for no more than one month, with a reasoned notice to the applicant within three days stating the ground, actions taken and expected date. The maximum aggregate period thus falls: currently up to two months where additional study applies (up to one month plus a further month); under the proposal, fifteen days plus a capped, closed-list extension.

A new Article 27^1 on answer quality would require a reasoned conclusion on every question, the facts established, and the norms applied, with legal grounds and contest procedure stated for any refusal. Answers merely restating legislation, reaching no conclusion on the merits, or relying on unverified information would not count as proper consideration; once established, the superior body must recognise the appeal as improperly considered, refer it for repeat consideration, and hold the officials at fault liable. This creates no new liability - it gives content to the liability already in Article 43 of the Code on Administrative Responsibility, turning a blanket provision into an applicable one.

A new Article 34^1 on open monitoring and public accountability would give applicants real-time tracking through a single electronic system, while the authorized body publishes quarterly, per body, the total appeals received, the share in violation of periods, the number and share of extensions, the share satisfied, and the number and share of repeat appeals. Exceeding a threshold share of repeat appeals on one question would trigger an unscheduled review, feeding into the identification of

heightened corruption-risk spheres and submission to the anti-corruption authority - not abolishing departmental assessment, but publishing it and raising it to law level.

A new Article 24² on medical-service appeals continues the line begun by Article 24¹ for minors. Appeals about the quality, safety or timeliness of medical care would be considered within ten days, and those reporting an immediate threat to life or health within twenty-four hours, neither extendable, with immediate harm-prevention measures. Such appeals could not be forwarded to the medical organisation or worker concerned, and facts would be verified with an independent specialist uninvolved in the care in question. The authorized body would keep a single electronic register and publish annual, depersonalised statistics on categories, verification results, violations and measures taken; verification materials, including any expert conclusion, would be furnished to the applicant and usable as evidence in civil claims for material and moral damage, without restricting the patient's right to judicial protection under Article 985 of the Civil Code (1996) - linking the pre-trial stage to civil-law remedies.

The reliability of these results follows because every proposal rests on an acting normative text and a verifiable foreign analogue, requiring no bodies or procedures unknown to the national system. Their effectiveness is systemic: shortening periods without answer-quality liability would only multiply formal decisions; liability without objective monitoring would hinder detecting violations; open monitoring is impossible without uniform standards. Article 24² continues Article 24¹; Article 27¹ supplements Article 27; the new Article 28 preserves extension while limiting it to objective necessity; Article 34¹ is the open counterpart to Article 34's departmental monitoring. None requires extra budget expenditure: the electronic system can build on the existing Virtual Reception of the President, the Unified Portal of Interactive Public Services and the Unified Digital Platform (President of the Republic of Uzbekistan, 2025), while the medical register relies on the Ministry of Health's existing systems.

Discussion

The comparative material shows the same tasks solved by fundamentally different, not equally receivable, means.

Kazakhstan is closest to Uzbekistan's legal tradition. Its Administrative Procedural Code, Article 76, sets fifteen working days from registration, extendable only by a reasoned decision to establish factual circumstances significant to the case, for no more than two months, with compulsory three-day notification and disciplinary liability for an unjustified extension (Administrative Procedural Code of the Republic of Kazakhstan, 2020); since 17 December 2025 complaints receive twenty working days with extension prohibited except by law, tracked through the e-Otinish platform (n.d.). Korea likewise differentiates periods by category through presidential decree (Civil Petitions Treatment Act, n.d.) - an approach the author supports: a law-established, differentiated period, a closed list of extension grounds, and personal liability for the extending official.

Singapore instead sets periods by service quality standards: its AI-assisted OneService platform forwards appeals, keeps status visible, and in complex cases states the measures taken and an indicative completion date (n.d.). Valuable as an organizational, not

normative, model, it is not proposed for direct reception; its lesson - informing the applicant of progress rather than merely extending the period - is what the proposed Article 28 carries forward through its reasoned notification.

German law shows what a period violation should entail: under §75 of the Code of Administrative Court Procedure, an interested person may apply directly to the administrative court once no decision has been taken within a reasonable period, generally three months, without sufficient grounds (Verwaltungsgerichtsordnung, n.d.) - the proceedings concern the inaction itself, so a period violation is an independent violation of rights, not a technical delay. Direct reception is not proposed, since it presupposes reorganising administrative justice, but the construction supports treating a delay as a legal fact in its own right.

Korea's e-People platform unites the appeal systems of over nine hundred bodies and is run by the Anti-Corruption and Civil Rights Commission, which analyses appeals to identify systemic and corruption problems early (e-People, n.d.; Anti-Corruption and Civil Rights Commission of the Republic of Korea, n.d.) - a function absent nationally, which the proposed Article 34[1] supplies. State policy already confirms the significance of medical-service appeals: by Decree of 12 October 2020 the President entrusted the Anti-Corruption Agency, jointly with the Ministry of Health, with the "Sector without Corruption" project (Decree No. DP-6110, 2020); its study of treatment institutions in the Andijan, Bukhara and Samarkand regions found no procedure for publishing vacant posts, instances of extortion by medical workers, and delays in introducing the electronic polyclinic, medical card, case history and queue (Anti-Corruption Agency of the Republic of Uzbekistan, 2021) - confirming health care as a sphere of heightened corruption risk, which favours a special regime over the general procedure.

The main research difficulty was the absence of open, comparable statistics on appeal consideration: since Resolution No. 341's assessment (2018) is unpublished and Article 35 reports are not standardised, no quantitative assessment of extension frequency, repeat-appeal share or satisfaction was possible, and the research rests on normative and comparative analysis instead - a gap that itself confirms the third gap, since missing data is a consequence of closed monitoring. A second difficulty was the blanket character of Article 43 of the Code on Administrative Responsibility (1994): without a legislative definition of a valid extension reason or a proper answer, enforcement practice depends on criteria not fixed by law. A third was the incomparability of administrative traditions: Germany's and Singapore's models arose within different systems of justice and public service, so the comparison proceeded at the level of legal constructions rather than numerical periods.

Two principal approaches emerge: a normative one (Kazakhstan, Korea, Germany), where periods, extension grounds and consequences are law-based and guaranteed by official liability or judicial contestation of inaction; and an organizational one (Singapore), guaranteed by transparency and constant informing. The present results follow the normative approach - not for its inherently greater effectiveness, but because Uzbekistan's periods are already law-based and named in Article 40 of the Constitution (2023), so differentiation must likewise occur by law; Singapore's organizational elements are

received above, but as normative obligations rather than service standards. Compared with domestic works on the regulation of particular spheres (Achilova, 2023; Ilhomovna, 2023), this research differs in object - the procedural rather than substantive component - with verifiability of the body's actions as its criterion, not completeness of regulation.

Conclusion

Four conclusions follow. First, the Law's procedural core has remained unchanged since 2017 even as the environment of its application is renewed fundamentally; automating unchanged rules speeds document flow without affecting the outcome of consideration. Second, the current regulation contains four interconnected gaps: uniform periods with evaluative extension grounds; no normative criteria of a proper answer or consequences for non-compliance; departmental, closed monitoring; and no special regime for medical-service appeals. Third, closing these gaps calls for a new wording of Article 28 differentiating periods and closing the extension-grounds list; a new Article 27^1 on answer quality and its consequences; a new Article 34^1 on open monitoring and public accountability; and a new Article 24^2 on a special regime for medical-care appeals. Fourth, the amendments form a single system rather than operating separately, are built into the Law's existing architecture, correspond to constructions tested in Kazakhstan, Korea and Germany, and require no additional budget expenditure.

Taken together, the proposals shift the emphasis from the formal movement of a document to the actual resolution of the citizen's question: effectiveness would be measured not by the number of answers sent but by the content of decisions, the observance of reasonable periods, and the openness of results - matching both the constitutional requirement that appeals be considered in the established manner and periods, and the declared course toward digitalizing public administration and reducing corruption risks.

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

LEGAL ASPECTS OF INVESTIGATIVE JOURNALISM

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Abstract. *This article examines investigative journalism as a distinct and socially significant form of journalistic activity, with particular emphasis on its theoretical foundations, historical development, and contemporary role. Drawing upon relevant academic literature and practical examples, the study explores the conceptual essence, social functions, and defining features of investigative journalism. Particular consideration is given to the legal and ethical standards governing the collection, verification, and dissemination of information, as well as to the rights, responsibilities, and professional obligations of journalists. The article also analyzes the contribution of investigative journalism to public oversight, institutional transparency, and accountability within civil society. It demonstrates that investigative journalism serves as an important mechanism for exposing socially significant problems, scrutinizing the activities of public authorities, detecting and preventing corruption, and advancing principles of social justice. Furthermore, the study provides a conceptual distinction between "investigative journalism" and "journalistic inquiry" by examining differences in their objectives, methodological approaches, and areas of application from both national and international scholarly perspectives. The findings highlight the enduring importance of investigative journalism in contemporary media theory and its growing role in shaping an informed, transparent, and accountable information environment.*

Keywords**:** *public oversight, journalist, journalistic investigation, inquiry, monitoring, Information*

Introduction

In the contemporary process of building and strengthening civil society, public oversight constitutes one of the fundamental institutions of democratic governance. It provides citizens and civil society institutions with mechanisms to monitor the activities of public authorities, promote transparency, and contribute to accountability in the exercise of public functions. In the Republic of Uzbekistan, the legal framework for public oversight is established by the Law "On Public Oversight," which defines the principal forms through which such oversight may be exercised. At the same time, Article 6, paragraph 2 of the Law provides that public oversight may also be carried out in other forms established by legislation [5; 8; 15].

Within this broader framework, journalistic investigation and public cadastral oversight may be considered as examples of additional mechanisms through which socially significant activities and decisions may be subjected to public scrutiny. Although journalistic investigation is not expressly identified as an independent form of public oversight in the Law "On Public Oversight," its substantive characteristics and practical functions allow it to be viewed as an important mechanism of public control exercised through the mass media [1; 5; 8; 15].

The significance of investigative journalism in this context is also recognized in academic literature. For example, A. Yuldashev, examining the forms of public oversight, emphasizes that the provision

allowing public oversight to be exercised in other forms creates the legal basis for recognizing such mechanisms as journalistic investigation, community environmental inspectors, public environmental expertise, and other forms of socially oriented oversight [15]. This position demonstrates that the scope of public oversight is not necessarily limited to the expressly enumerated forms and may encompass other legally permissible mechanisms aimed at protecting public interests and ensuring accountability [5; 15].

From this perspective, journalistic investigation occupies a distinctive position at the intersection of freedom of expression, access to information, public oversight, and professional journalistic activity. Through the systematic collection, verification, analysis, and dissemination of information concerning matters of public interest, investigative journalism can contribute to the identification of violations, the exposure of corruption, the monitoring of public institutions, and the strengthening of transparency within society [1; 3; 6; 12; 14]. Accordingly, the legal status and practical mechanisms of journalistic investigation require comprehensive examination from both legal and institutional perspectives.

Methods

The purpose of this study is to provide a comprehensive and systematic analysis of the legal foundations of journalistic investigation, with particular emphasis on its role, legal position, and functions within the contemporary system of legislation and public oversight. The research also seeks to examine the practical implementation of investigative journalism in light of applicable legal requirements, professional responsibilities, and relevant ethical standards [3; 6; 7; 12].

To achieve these objectives, the study employs an integrated methodological framework combining historical-legal, comparative-legal, analytical, and conceptual methods.

The historical-legal method is used to examine the emergence and evolution of journalistic investigation and public oversight within the legal system. This approach makes it possible to identify major stages in the development of relevant legal norms and to determine how the legal regulation of investigative journalism has evolved in response to changes in the media environment and democratic institutions [1; 5; 6; 12].

The comparative-legal method is applied to compare national approaches with relevant international practices concerning investigative journalism, freedom of information, public oversight, and the legal responsibilities of journalists. Such comparison makes it possible to identify common regulatory approaches as well as distinctive features of different legal systems and journalistic traditions [3; 6; 12; 14].

The analytical method is employed to examine the content of existing legal provisions, scholarly approaches, and their practical implications for investigative journalism. Particular attention is given to the relationship between journalists' professional rights and obligations, access to socially significant information, protection of legitimate interests, and the requirements governing the dissemination of information [7; 12; 14].

The conceptual method is used to clarify the theoretical and legal meaning of key concepts associated with investigative journalism and public oversight. It also facilitates the differentiation between related

categories, including journalistic investigation and other forms of journalistic inquiry [3; 6; 11; 12].

The combination of these methodological approaches enables a comprehensive examination of journalistic investigation as a multidimensional legal and social phenomenon. This methodological framework allows the study to assess not only the formal legal basis of investigative journalism but also its practical significance in promoting transparency, strengthening institutional accountability, protecting public interests, and ensuring effective mechanisms of public oversight [1; 5; 8; 15].

Results

Journalistic investigation may be regarded as one of the most effective mechanisms through which the mass media contributes to public oversight. Within the framework of this study, it is examined as a distinct instrument of public scrutiny capable of identifying socially significant problems, exposing abuses, and drawing public attention to matters that may otherwise remain outside effective public control [1; 3; 6; 14]. Before assessing its role as a mechanism of public oversight, however, it is necessary to clarify the legal and conceptual meaning of journalistic investigation.

Under Article 9 of the Law of the Republic of Uzbekistan "On the Protection of Journalistic Activity," journalists have the right to collect information and conduct journalistic investigations. They are also entitled to disseminate the results of their investigations through the mass media and, at their discretion, submit relevant materials to state authorities, self-governing bodies of citizens (mahallas), public associations, and other organizations. An important legal safeguard is that materials and documents obtained by a journalist in the course of an investigation may not be confiscated or inspected by state authorities, except in cases and according to procedures established by law.

At the same time, the existing legislative framework does not provide a sufficiently detailed regulation of the procedure, substantive scope, permissible methods, or legal boundaries of journalistic investigation. Nor does it establish a comprehensive mechanism governing the conduct and publication of investigative materials. This regulatory uncertainty is accompanied by conceptual ambiguity in academic literature. Despite the widespread use of the term "journalistic investigation," there is still no universally accepted definition that comprehensively establishes its objectives, functions, methodological characteristics, and legal boundaries [3; 6; 11; 12; 14].

A further conceptual issue concerns the relationship between the terms "journalistic investigation" and "journalistic inquiry." These expressions are sometimes used as synonyms, although they may convey different methodological and functional meanings. The concept of investigative journalism developed particularly within the Anglo-American journalistic tradition and is generally associated with the term "investigation." In subsequent academic and professional discourse, the concept was incorporated into other linguistic and legal traditions, including Russian and Uzbek scholarship [3; 6; 12; 14]. In Uzbek terminology, related concepts may be expressed through such terms as tekshiruv and surishtiruv. The coexistence of these terms has contributed to a certain degree of terminological inconsistency in both academic and professional discourse.

From a conceptual perspective, "investigation" more accurately reflects the systematic and proactive nature of this form of journalism. Unlike an ordinary inquiry, which may primarily involve obtaining clarification or describing an observable phenomenon, investigative journalism generally presupposes the independent identification of relevant facts, verification of information, analysis of interconnected circumstances, and disclosure of matters of public interest [3; 6; 12; 14]. Accordingly, the methodological and functional scope of journalistic investigation is broader than that of routine journalistic inquiry.

Discussion

In contemporary media practice, journalistic investigation is primarily associated with the systematic search for, verification, analysis, and publication of information concerning facts or circumstances that are not readily accessible to the public. Although "journalistic investigation" and "journalistic inquiry" continue to be used interchangeably in some scholarly works, the former appears conceptually more appropriate for describing a professional activity aimed at uncovering information of substantial public significance [3; 6; 11; 12; 14].

The distinction is important because the term "inquiry" may suggest a relatively limited activity of asking questions, collecting explanations, or examining an observable phenomenon. By contrast, investigation implies a more proactive and structured process involving the identification of concealed or insufficiently examined facts, verification through multiple sources, analytical assessment, and presentation of the findings to the public [3; 6; 12]. Consequently, the term "journalistic investigation" more fully reflects both the methodological complexity and the public-interest orientation of the activity.

The diversity of scholarly approaches further demonstrates the absence of a single universally accepted definition. A. Konstantinov (2010), for example, characterizes journalistic investigation as an activity involving the search for, examination, and publication of facts that remain outside public attention [6]. This interpretation emphasizes the journalist's role in identifying information that is socially significant but insufficiently visible in the public sphere.

A somewhat different approach is associated with Robert Green, who describes investigative work as addressing significant subjects in circumstances where individuals or organizations may prefer information to remain confidential (Wilman, 1998) [14]. Although this approach draws attention to the potentially concealed nature of the information being investigated, it requires careful qualification from a legal perspective. The existence of a public interest in particular information does not, in itself, authorize a journalist to obtain protected personal or confidential information through unlawful means. Journalistic investigation must therefore remain within the boundaries established by legislation concerning privacy, personal data, confidentiality, and lawful access to information [7; 12; 14].

A.A. Tertichniy (2002) identifies certain similarities between journalistic investigation and investigative activities in law enforcement, particularly with regard to information gathering, logical analysis, verification, and attention to detail [12]. Such a comparison may be useful from a methodological perspective; however, the two activities should not be

legally equated. Law-enforcement investigators operate within formally established procedural frameworks and may possess legally defined coercive powers. Journalists, by contrast, generally rely on publicly available information, interviews, documentary evidence, independent verification, expert opinions, and analytical techniques [3; 4; 12; 14]. Their principal objective is not to establish criminal guilt or impose legal responsibility but to disclose matters of public interest and facilitate informed public discussion.

Tertichniy also identifies political, economic, environmental, and socially oriented investigations among the principal categories of investigative journalism [12]. This classification remains relevant, although contemporary developments in digital media suggest the need for further expansion. In particular, investigative journalism increasingly encompasses data-driven investigations, cross-border collaborative investigations, investigations based on digital records, and investigations concerning the activities of online platforms and technology companies.

N.V. Berger (2006) approaches investigative journalism primarily as a method rather than merely as a journalistic genre [3]. This interpretation emphasizes its interdisciplinary and procedural nature. A.I. Stanko (1997), in contrast, views investigative journalism as a genre in which the journalist examines negative social phenomena and provides an objective assessment of the identified circumstances [11]. Although this definition captures the substantive purpose of investigative journalism, it does not fully encompass the methodological processes through which information is identified, verified, analyzed, and transformed into a publicly accessible journalistic product.

Some Western scholars, including D. Rendall, have approached investigative journalism primarily as a method for achieving a high standard of journalistic practice. Such an interpretation highlights professional quality but may underestimate the broader legal, ethical, social, and methodological dimensions of investigative journalism. In reality, investigative journalism represents a multidimensional phenomenon combining information-gathering techniques, analytical procedures, professional ethics, legal safeguards, and a public-interest function [3; 6; 12; 14].

This position is consistent with the approach attributed to Jon Willman, who distinguishes investigative journalism from law-enforcement activity by emphasizing that the journalist's task is to examine facts that are insufficiently visible to the public and prepare them for dissemination [14]. This distinction is particularly important because it preserves the independent nature of journalism while recognizing its contribution to public accountability.

Michael Berlin (2000) further emphasizes the importance of initiative and originality in investigative journalism [4]. Investigative work may involve situations in which officials or organizations are reluctant to disclose information, but it does not necessarily depend upon confrontation or secrecy. Information may also be obtained voluntarily through interviews, documentary sources, whistleblowers, experts, and institutional cooperation. Therefore, the investigative process should be understood as flexible and adaptive rather than confined to a single method of information acquisition [4; 14].

J. Qudratullaev and J. Ilkhombekov (2023) define journalistic investigation as the collection, examination, and analysis of information [7]. Although concise, this approach captures several essential methodological elements. Nevertheless, the definition could be further developed by explicitly incorporating the public-interest dimension of investigative journalism and its contribution to social accountability [5; 7; 8].

The reviewed scholarly approaches demonstrate that journalistic investigation cannot be reduced to a simple process of information gathering or to a conventional journalistic genre. It constitutes a complex professional activity in which information is purposefully identified, obtained, verified, analyzed, interpreted, and ultimately presented to society [3; 6; 11; 12; 14]. At the same time, its exercise must remain subject to legal and ethical limitations, particularly where the rights to privacy, personal data protection, confidentiality, reputation, and other legitimate interests are concerned [7; 12; 14].

Conclusion

The comparative analysis of scholarly approaches demonstrates that journalistic investigation remains a conceptually complex and insufficiently standardized category. Existing definitions differ in their emphasis: some focus on the discovery of hidden facts, others on methodological procedures, while some emphasize the genre's social function or its relationship with public accountability [3; 6; 11; 12; 14]. Nevertheless, several common elements can be identified, including purposeful information gathering, verification, analytical examination, public-interest orientation, and dissemination of socially significant findings.

On the basis of these findings, the following authorial definition is proposed: journalistic investigation is a professional activity through which a journalist identifies, obtains, verifies, collects, examines, and analyzes information that is not sufficiently known or accessible to the public, with the purpose of revealing abuses, violations, misconduct, or other matters of significant public interest through lawful dissemination.

This definition emphasizes several essential characteristics. First, journalistic investigation is a professional activity rather than merely a journalistic technique. Second, it involves a sequence of interconnected methodological operations, including identification, collection, verification, examination, and analysis of information. Third, its defining feature is a clear orientation toward matters of public interest. Fourth, the ultimate objective is not the exercise of law-enforcement powers but the disclosure and dissemination of socially significant information [3; 4; 6; 7; 12; 14].

In light of this approach, it is proposed that Article 9 of the Law of the Republic of Uzbekistan No. 402-I of April 24, 1997, "On the Protection of Journalistic Activity," be supplemented with a legal definition of journalistic investigation in the following wording:

"Journalistic investigation is a professional activity of a journalist aimed at identifying, obtaining, verifying, collecting, examining and analyzing information that is not sufficiently known or accessible to the public, and at lawfully disclosing information concerning abuses, violations, misconduct or other matters of significant public interest through dissemination to the public."

The proposed definition may contribute to greater legal certainty in the regulation of investigative journalism. In particular, it establishes the principal characteristics of the activity, identifies its legitimate objectives, and clarifies its relationship with the professional rights and responsibilities of journalists [7; 12; 14]. At the same time, the proposed formulation does not equate journalistic investigation with investigative activities carried out by law-enforcement authorities. Its primary function remains informational, analytical, and socially oriented.

The practical implementation of such a provision should be considered in conjunction with legislation governing freedom of expression, freedom of the mass media, access to information, personal data protection, privacy, confidentiality, and professional journalistic ethics. Such systemic coordination is essential because the recognition of journalistic investigation as a legally defined activity should not be interpreted as granting journalists unlimited access to protected information or authorizing methods that infringe upon the legitimate rights of other persons [7; 12; 14].

Accordingly, the incorporation of a clear legal definition of journalistic investigation into national legislation could strengthen the principle of legal certainty, provide additional protection for legitimate investigative activities, and establish clearer boundaries between lawful investigative journalism and unlawful interference with private or protected spheres. More broadly, such regulation could enhance the role of investigative journalism as an instrument of transparency, institutional accountability, public participation, and effective public oversight in a democratic society [1; 5; 8; 15].

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

LEGAL BASIS OF CIVIL SOCIETY INSTITUTIONS IN THE LEGISLATION OF THE REPUBLIC OF UZBEKISTAN

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Abstract. *This article analyzes the theoretical and legal foundations of civil society and civil society institutions, with particular attention to their role in the development of a democratic state governed by the rule of law. It examines scholarly approaches to the concept and essential characteristics of civil society, as well as the legal status, functions, and significance of its institutions. Particular attention is paid to the constitutional and legal framework governing civil society institutions, including the relevant provisions of the Constitution and other normative legal acts. The article also considers the role of non-governmental non-profit organizations, citizens' self-government bodies, mass media, and other civil society institutions in protecting citizens' rights and legitimate interests, promoting public participation, ensuring transparency, and strengthening public oversight. Existing legal mechanisms and certain challenges affecting the effective functioning of civil society institutions are analyzed. Based on the findings, the article formulates proposals and practical recommendations aimed at improving national legislation, strengthening the legal guarantees of civil society institutions, and enhancing their participation in public and state affairs.*

Keywords**:** *Keywords: civil society, civil society institutions, non-governmental organizations, publicassociations, legal framework of civil society institutions.*

Introduction.

Today, our country is undergoing large-scale reforms aimed at comprehensive development, building a legal democratic state and a free civil society. Among them are the reforms carried out to improve public administration, improve the effectiveness of law-making activities, ensure the implementation of the adopted laws, increase the participation and role of citizens in public administration, as well as ensure the participation of the people in the process of law-making and take into account the opinion of society in the adopted documents. Our President Sh.M. Mirziyoyev noted: We have put before us the glorious intention that we will build a new Uzbekistan together with our brave and noble people. In this regard, the approach — initiator of society – reform — is increasingly penetrating into our daily activities.[1] The main goal of the reforms being implemented in our country is undoubtedly to build a humane democratic state, as stated in the preamble to our Constitution. Only in countries with established democracies can civil society be built and the free and legal operation of civil society institutions be guaranteed.

Civil society is a relative of the state. Independent, expressing and defending their interests making social institutions, organizations and citizens is the sum of the Union. Citizenship in building a democratic society the role of the institutions of society is extremely important. In Uzbekistan formation of civil society and implementation of comprehensive reforms in the direction of development in progress. In Uzbekistan, with the advent of independence, the national Culture and spirituality have been restored, the

people are truly free. he began to feel freedom deeply in his life. Market in the country the beginning of the transition period to the economy, private restoration of ownership, completely new Uzbekistan the ground for the formation, the revival of democratic values created. Fundamental changes in the worldview of citizens occur gave. They live their lives independently of the events around them. From the point of view of the individual, his destiny is connected with the destiny of the country. values such as feeling without were formed. Head of the country

The role of reform and the implementation of a strong social security policy The process of improving the "Strategy for the Development of Uzbekistan"conditions aimed at implementation with consistent basis created. The main priority of state policy and social development directions focus on a person, his well-being and freedom started. A new era has begun in the history of Uzbekistan.

Literature analysis and methodology. It is worth noting that there is no universally accepted definition of civil society and the concept of civil society institutions, neither in the legal literature nor in the legislation of our country.

However, a number of legal scholars have defined the above concepts. In particular, according to the legal scholar Odilkoriev, civil society is a free democratic legal society that prioritizes the interests of every person, an atmosphere of respect for legal traditions and laws is formed, universal values are respected, human rights and freedoms are unconditionally ensured, mechanisms of effective public control of state power are created, human relations rely on deep spiritual and cultural values. [2] Another legal scholar believes that civil society is a free, legal, democratic, and highly cultured society in which the principles of law, morality, humanity, and justice are respected. Again it is a multi-uklad with a mixed economy a competitive society, initiative-based entrepreneurship, is a society in which a reasonable balance of interests of different social strata is ensured. [3] In General, I.N.According to Matuzov, civil society is a set of external (economic, social, cultural, educational, spiritual, family, religious) relations between the state and politics, which reflect the interests, desires, and aspirations of citizens, their associations, and the class of owners. Since civil society is a broad and multifaceted concept, it has been given many definitions in scientific sources, but it is difficult to find a universally accepted definition of civil society today. [4]

Constitution. In the norms of the Chapter — Public Associations‖ of the Constitution of the Republic of Uzbekistan, the legal basis of civil society institutions is enshrined. In particular, Articles 69-75 contain norms on the concept of public associations, civil society institutions such as trade unions, political parties, and religious organizations. Article 70 of this chapter defines what types of organizations are recognized as public associations, according to which: trade unions, political parties, societies of scientists, organizations of women, veterans and youth, creative unions, mass movements and other associations of citizens registered in the law in the Republic of Uzbekistan are recognized as public associations. [8] Article 71 of the Constitution contains provisions on which types of civil society institutions cannot be formed. The provisions in question are as follows:

- aiming to forcibly change the constitutional order;

• opposing the sovereignty, integrity and security of the republic, and the constitutional rights and freedoms of citizens;

• promoting war, social, national, racial and religious hatred;

• infringing on the health and spirituality of the people;

• The formation and activities of militarized associations, political parties of a national and religious nature, and public associations are prohibited;

• The formation of secret societies and associations is prohibited. [9]

When organizing a political party, trade unions, social movements and other types of civil society institutions, it is necessary to strictly follow these guiding principles established by the Basic Law.

The legal basis of civil society institutions, along with the Constitution and other regulatory documents, is also contained in a number of codes of the Republic of Uzbekistan.

Article 16 of the Labor Code of the Republic of Uzbekistan, which defines the basic labor rights of employees, establishes the right of employees to unite into trade unions, which is considered an important civil society institution, according to which: each employee has the right to unite into trade unions and another organization representing the interests of employees and labor teams.

Article 17 of this Code lists the basic rights of employers, including the right of an employer to form public associations and to be a member of such associations.

Articles 73-78 of the Civil Code of the Republic of Uzbekistan cite norms regulating the activities of non-commercial organizations, and the norms defining the activities of the matlubot cooperative (Article 73), public associations (Article 74), public funds (Article 75), institutions (Article 76), associations of legal entities (Article 77), self-governing bodies of citizens(Article 78) are included.

The Criminal Code of the Republic of Uzbekistan also contains norms related to the activities of civil society institutions. These include unlawful formation of Public Associations or religious organizations as defined in Article 216, encouraging participation in the activities of illegal public associations and religious organizations in Article 216-1, violation of the legislation on religious organizations specified in Article 216-2, as well as the norms on the organization of meetings, rallies, street walks or demonstrations in Article 217, violation of

The legal basis of civil society institutions is determined not only by constitutions and codes, but also by laws of a special and universal type. These laws include:

- The Law of the Republic of Uzbekistan — On Political Parties‖ (26.12.1996);

- The Law of the Republic of Uzbekistan — On Public Associations‖ (15.02.1991);

- The Law of the Republic of Uzbekistan — On Non-Governmental Non-Profit Organizations‖ (14.04.1999);

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- The Law of the Republic of Uzbekistan — On Guarantees of the Activities of Non-Governmental Non-Profit Organizations‖ (03.01.2007);

- The Law of the Republic of Uzbekistan — On Citizens' Self-Government Bodies‖ (14.04.1999);

- The Law of the Republic of Uzbekistan "On Trade Unions" (06.12.2019);

- The Law of the Republic of Uzbekistan — On the Financing of Political Parties‖ (30.04.2004);

- The Law of the Republic of Uzbekistan "On Private Housing Owners' Associations" and other special-type laws.

Results. Of the listed legislative acts, the laws "On Public Associations" and "On Non-Governmental Non-Profit Organizations" are universal-type laws. Because, through these legislative acts, legal relations related to almost all types of civil society institutions are regulated. In particular, the Law "On Public Associations" defines which organizations are recognized as public associations and to which specific relations this law applies to civil society institutions. Article 1 of the Law defines a public association as follows:

A public association is a voluntary structure that arises from the free expression of the will of citizens who unite to jointly realize their rights, freedoms, and legitimate interests in politics, economics, social development, science, culture, ecology, and other areas of life.

Political parties, mass movements, trade unions, women's, youth and children's organizations, veterans and disabled organizations, scientific-technical, cultural-educational, physical education-sports and other voluntary societies, creative associations, countrymen's associations, associations and other associations of citizens are recognized as public associations.

Part 3 of the Act stipulates which institutions are not subject to this law, according to which:

This law does not apply to cooperative organizations that pursue commercial goals or promote the profit (income) of other enterprises and organizations, to religious organizations, to self-government bodies of citizens, as well as to foreign bodies, the order of organization and activity of which is determined by other legislation.

According to the law‖on non — profit organizations", a non-profit organization is understood as a self-government organization created by individuals and (or) legal entities on a voluntary basis, which does not make the receipt of income (profit) the main purpose of its activities and does not distribute the income (profit) received among its participants (members).

Thus, these two legislative acts regulate general relations with civil society institutions. Institutions that fall into a separate category (political parties, trade unions, and religious organizations) are regulated by special laws, which are listed above.

Following the legal framework guaranteeing the establishment and operation of civil society institutions are the legislative acts (Presidential Decree, decrees and orders,

Decisions of the cabinet, etc.) and international instruments ratified by the Oliy Majlis.

Conclusion. As a conclusion, we can say that civil society institutions are democratic institutions that are not established by the state, do not make income generation the main purpose of their activities, promote the realization of the rights and freedoms of citizens, are formed to jointly satisfy their social, cultural, political, spiritual needs. The legal basis of civil society institutions is formed by regulatory legal acts that guarantee their functioning. The reforms carried out in our country, the emergence of new social relations, also necessitates the improvement of legislation on civil society institutions. We can make the following suggestions and recommendations on improving the legislation:

- civil society and —civil society institutions in the legislation giving a clear scientific definition to the concepts of;

- Unification of documents with similar content and subject matter, in particular, the documents — On Public Associations‖ and — On Non-Governmental Non-Profit Organizations‖ into a single law;

- or, as our President emphasized, to create the necessary conditions for the free functioning of civil society institutions, their active participation in state and public administration, and to further improve the mechanisms of state support for them, to adopt the Code of Non-Governmental Non-Profit Organizations;

- Study and apply advanced foreign experience in improving legal documents to national legislation.

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

DIGITAL TRANSFORMATION OF INTERNATIONAL COMMERCIAL ARBITRATION IN UZBEKISTAN: LEGAL AND INSTITUTIONAL PROSPECTS

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Abstract. *The article examines the digital transformation of international commercial arbitration in the Republic of Uzbekistan from legal, procedural, institutional, and technological perspectives. The study aims to assess the readiness of the national legal system and arbitral institutions to conduct arbitral proceedings effectively, fairly, and securely in a digital environment and to substantiate prospective directions for development. Using formal-legal, systemic, comparative-legal, and functional methods, the research analyses national regulation of international commercial arbitration, electronic documents and signatures, personal data, cybersecurity, electronic evidence, and relevant international standards. The study finds that Uzbekistan has established the basic legal prerequisites for digital arbitration, but the existing rules and institutional capacities remain fragmented and should be integrated into a coherent procedural model. Online and hybrid hearings, electronic evidence, reliable participant identification, confidentiality, cybersecurity, and responsible use of artificial intelligence are identified as priority areas. The article proposes a "centralized infrastructure — institutional pluralism" model, including a national "Tashkent ADR Center" and a regional "Samarkand ADR Platform", while maintaining the procedural and organizational independence of arbitral institutions.*

Keywords**:** *international commercial arbitration; digital transformation; online arbitration; electronic evidence; cybersecurity; confidentiality; artificial intelligence; ADR*

Introduction

Digital transformation is changing the architecture of modern dispute resolution. International commercial transactions are increasingly negotiated, concluded, performed, and documented through digital systems. Electronic correspondence, digital contracts, metadata, cloud storage, and other information generated by digital activity have therefore become part of the evidentiary environment of commercial disputes. Arbitration, traditionally valued for procedural flexibility, is particularly capable of adapting to technological change, but that flexibility must remain compatible with due process, equality of the parties, confidentiality, and the independence of arbitrators [1, pp. 1–14; 2, pp. 52–60]. Born likewise treats technological and procedural developments within the broader architecture of international arbitration and emphasizes the importance of maintaining procedural integrity while accommodating modern practice

The issue is especially relevant for Uzbekistan. The adoption of the Law of the Republic of Uzbekistan No. LRU-674 "On International Commercial Arbitration" dated 16 February 2021 created a modern statutory framework based substantially on the UNCITRAL Model Law. At the same time,

legislation on electronic documents, electronic signatures, electronic commerce, personal data and cybersecurity has developed rapidly. These acts provide the legal environment in which digital arbitration may operate, but they do not by themselves constitute a unified digital arbitral procedure.

The literature shows that digitalization is no longer limited to replacing paper documents with electronic files. It affects the organization of hearings, communication between participants, management and assessment of electronic evidence, cybersecurity, institutional infrastructure, and the use of artificial intelligence (AI) [3, pp. 147–160; 4, pp. 547–573]. Comparative research also demonstrates that technological change requires coordinated adaptation of legislation rather than isolated amendments to individual statutes [5, pp. 16–23].

Uzbek scholarship has begun to address these issues, including the prospects of digital and AI-assisted arbitration and the legal significance of digital evidence [6, pp. 31–36]. Nevertheless, a comprehensive model integrating legal, procedural, institutional, technological, and cybersecurity dimensions remains insufficiently developed. The purpose of this study is therefore to identify the principal legal and institutional gaps in the digitalization of international commercial arbitration in Uzbekistan and to formulate a coherent model for its further development.

Materials and methods

The object of the study comprises legal and procedural relations arising in the digitalization of international commercial arbitration. The subject includes national rules governing arbitration and related digital technologies, international standards, institutional practices, and procedural mechanisms for online dispute resolution.

The research materials include the Constitution of the Republic of Uzbekistan; the Law of the Republic of Uzbekistan No. LRU-674 “On International Commercial Arbitration” dated 16 February 2021; the Laws “On Electronic Document Management” dated 29 April 2004, “On Personal Data” dated 2 July 2019, “On Cybersecurity” dated 15 April 2022, “On Electronic Commerce” dated 29 September 2022, and “On Electronic Digital Signature” dated 12 October 2022; the UNCITRAL Model Law on International Commercial Arbitration; and relevant international procedural and cybersecurity instruments.

Four mutually complementary methods were applied. The formal-legal method was used to identify the content and interaction of national legal norms. The systemic method examined arbitration, information, and procedural regulation as interconnected elements of a single legal infrastructure. The comparative-legal method was used to compare the Uzbek framework with international approaches and selected foreign scholarship. The functional method assessed whether existing norms and institutional mechanisms adequately respond to practical requirements of online hearings, electronic evidence, cybersecurity, confidentiality, and AI-assisted work. The methodology follows a principle of technological neutrality: regulation should establish functional legal guarantees

rather than depend on a particular platform or software product [7, pp. 851–864].

Results

The study demonstrates that Uzbekistan has developed the principal legal prerequisites for digital arbitration, but these prerequisites are dispersed across several regulatory fields. The Law on International Commercial Arbitration provides the core framework for arbitral proceedings, while legislation on electronic documents, electronic signatures, personal data, cybersecurity and electronic commerce regulates individual components of a digital environment. The central regulatory challenge is therefore not the absence of legal permission to use technology, but the lack of a sufficiently integrated procedural cycle.

A first priority is the development of online and hybrid hearings as stable procedural forms. Virtual participation can reduce organizational and financial costs and facilitate the involvement of parties, arbitrators, representatives, experts, and interpreters located in different jurisdictions. At the same time, a digital hearing must preserve the right to be heard, equality of arms, reliable identification of participants, and the possibility of effective participation. Research on virtual arbitration confirms that cybersecurity and confidentiality are among the principal risks requiring procedural safeguards [8, pp. 829–849; 9, pp. 547–573].

A second priority is electronic evidence. The increasing use of electronic messages, digital contracts, metadata, cloud records, and other digital objects requires clear standards for authenticity, integrity, provenance, storage, and transmission. Empirical research confirms that electronic evidence is already regularly used in arbitration and may materially influence arbitral reasoning [9, pp. 30–39]. Uzbek scholarship likewise emphasizes the need to clarify the legal status and reliability of digital evidence in international commercial arbitration [6, pp. 31–36]. The electronic form of evidence should not, by itself, create a presumption of unreliability; verification should be proportionate to reasonable doubts about origin, integrity, or alteration.

A third priority is cybersecurity and confidentiality. Arbitration frequently involves commercially sensitive information, and digital proceedings increase the number of technical systems and service providers through which confidential information may pass. The literature emphasizes that cybersecurity should be assessed according to the nature and sensitivity of the dispute and the relevant technological risks rather than through purely formal compliance [10, pp. 253–290; 11, pp. 277–306]. Accordingly, arbitration institutions should adopt risk-proportionate security protocols covering access control, secure communications, incident response, data storage, backups, and the responsibilities of external technology providers.

A fourth priority concerns institutional digital readiness. Digitalization cannot be reduced to purchasing videoconferencing equipment. Effective digital arbitration requires secure platforms, procedural rules, electronic filing, reliable notification, document management, protected evidence storage, technical support, and personnel with relevant competencies. Comparative research

indicates that institutional readiness is closely connected with the capacity of arbitral institutions to adopt technology consistently and safely [10, pp. 253–290].

A fifth priority is the responsible use of artificial intelligence. AI can assist arbitrators with document classification, information retrieval, translation, legal research, and the analysis of large volumes of material. However, technological assistance cannot replace the arbitrator's personal responsibility for assessing evidence, applying the law, respecting procedural equality, and rendering the final award. Recent scholarship identifies both practical opportunities and significant ethical, confidentiality, and legal risks associated with the use of generative AI in arbitration [12, pp. 71–84; 13, pp. 49–70].

On the basis of these findings, the author proposes a model of "centralized infrastructure — institutional pluralism". The model does not require the organizational merger of arbitral institutions. Instead, it envisages common high-quality digital and material infrastructure that can be used by independent arbitration and mediation institutions. This approach combines economies of scale with institutional autonomy and preserves the parties' freedom to choose an arbitral institution.

The findings further indicate that digital arbitration should be organized as a complete procedural cycle rather than as a set of isolated electronic services. The cycle should cover initiation of proceedings, verification of the parties and representatives, electronic filing, payment and administrative communication, submission and preservation of evidence, scheduling and conduct of hearings, preparation and authentication of the award, secure archiving, and, where relevant, interaction with state courts at the recognition and enforcement stage. Fragmentation at any of these stages may undermine the practical value of otherwise valid digital tools.

Reliable identification is a particularly important component of online proceedings. An arbitral institution should be able to establish who is participating, in what procedural capacity, and whether the person appearing online is authorized to act for the relevant party. Identification mechanisms should be sufficiently reliable while remaining proportionate to the nature of the dispute. They should also provide an auditable record of procedural actions, especially where electronic submissions, technical interruptions, or changes in representation occur.

Online hearings require a standardized but flexible protocol. The protocol should regulate advance technical testing, identification of participants, access to the electronic case file, presentation of documents and witnesses, interpretation, recording where permitted, confidentiality requirements, and the procedural consequences of technical failures. It should also allow the tribunal to suspend or reschedule a hearing when a technical problem materially affects a party's ability to present its case. Research on virtual hearings supports the need to combine procedural flexibility with safeguards against inequality and confidentiality breaches [8, pp. 829–849; 4, pp. 547–573].

Electronic evidence requires a similar balance. The arbitral tribunal should distinguish between the admissibility of a

digital object and the weight to be attached to it. A message, electronic contract, database record, or metadata file may be relevant without being automatically conclusive. The tribunal should assess provenance, integrity, context, and the possibility of alteration, taking into account the parties' explanations and any expert evidence. This approach is consistent with empirical findings that electronic evidence is already an ordinary component of arbitration and that its practical value depends on the circumstances of the particular case [9, pp. 30–39].

The institutional framework should also address the relationship between arbitral institutions and external technology providers. Cloud services, videoconferencing systems, electronic filing platforms, and document-storage providers may process information that is confidential or commercially sensitive. Contractual and organizational arrangements should therefore specify access rights, security responsibilities, incident notification, data retention, and deletion procedures. Confidentiality should be understood not only as a professional or procedural obligation but also as an information-security requirement in the digital environment [11, pp. 277–306].

Digital readiness also has a human dimension. Arbitrators and arbitral secretaries should possess sufficient digital competence to understand the basic characteristics of electronic evidence, cybersecurity risks, cloud services, authentication, and the capabilities and limitations of AI. Lawyers and experts participating in proceedings require comparable competencies. International research on institutional readiness indicates that technology adoption is more sustainable where infrastructure, procedures, personnel, and organizational strategy develop together [10, pp. 253–290].

The proposed infrastructure model should be implemented in stages. At the first stage, model rules and minimum technical standards should be developed. At the second stage, common infrastructure and secure digital services should be made available to participating ADR institutions. At the third stage, interoperability with relevant state information systems and mechanisms for recognition and enforcement should be strengthened. This gradual approach would reduce the risk of investing in isolated technological solutions that later become incompatible with procedural or institutional requirements.

A further condition for successful digitalization is continuous evaluation. Arbitration institutions should periodically assess the reliability of their digital platforms, the frequency and causes of technical incidents, compliance with cybersecurity requirements, training needs, and the practical experience of parties and arbitrators. Such evaluation would permit rules to be updated in response to technological and procedural developments without requiring a complete redesign of the legal framework.

Discussion

The results confirm that the next stage of digital arbitration in Uzbekistan should be based on functional integration rather than on the adoption of a separate technology-specific law. International and comparative experience shows that technologies change more rapidly

than legal institutions; therefore, legislation should define procedural guarantees and responsibilities that remain applicable regardless of the platform used [5, pp. 16–23; 7, pp. 851–864].

The proposed approach also requires differentiation between technological possibility and procedural validity. The fact that electronic communication or a virtual hearing is technically possible does not automatically mean that procedural rights are adequately protected. A digital procedure is legally effective only when the parties have genuinely equal opportunities to participate, evidence can be reliably submitted and challenged, confidential information is protected, and the tribunal remains independent and responsible for the decision.

The electronic-evidence problem illustrates this distinction. A rule recognizing an electronic document as legally relevant is only the first step. Arbitral institutions should also establish practical standards for preserving original files, metadata, transmission records, and chain of custody. Technical examination should be activated where there are concrete reasons to question authenticity or integrity. Such a risk-based approach avoids both technological distrust and uncritical acceptance of digital material [9, pp. 30–39].

The same logic applies to AI. Recent research indicates that AI may assist with a broad range of arbitral tasks, but its use creates risks concerning confidentiality, bias, transparency, hallucinated legal authorities, and inappropriate delegation of decision-making [12, pp. 71–84; 13, pp. 49–70]. The appropriate principle is therefore human ultimate procedural responsibility: AI may support professional work, but the arbitrator must remain the final evaluator of evidence, arguments, applicable law, and the award.

The institutional dimension requires a national infrastructure capable of supporting different ADR institutions without compromising their independence. The author proposes the establishment of a "Tashkent ADR Center" as a national infrastructure provider. It could offer secure hearing rooms, videoconferencing, electronic filing, protected evidence storage, transcription, interpretation, cybersecurity support, and technical assistance. The Center should not replace existing arbitral institutions or interfere with their procedural autonomy.

At the regional level, a "Samarkand ADR Platform" could provide an open professional forum for the Central Asian states. Its functions could include exchange of experience, joint training, scholarly-practical research, professional dialogue, and development of interoperable approaches to digital ADR. The regional platform would therefore complement, rather than duplicate, the national infrastructure model.

The proposed model should be accompanied by model procedural rules for digital arbitration. These rules should address electronic filing and notification, participant identification, online hearing protocols, technical interruptions, electronic evidence, cybersecurity, confidentiality, and disclosure of AI use. They should remain technology-neutral and focus on functional safeguards.

The proposed model is consistent with the broader trend toward institutional development of digital commercial arbitration. Comparative

research suggests that digitalization is most effective where technological infrastructure is accompanied by procedural rules, professional standards, and cooperation between institutions [14, pp. 169–174]. For Uzbekistan, this means that the digitalization of arbitration should be treated as an institutional reform as well as a technological project.

An important policy choice is whether to establish one centralized arbitration institution or to create shared infrastructure for several independent institutions. The latter approach is preferable because it avoids excessive institutional concentration while allowing efficient use of costly technological resources. Centralized infrastructure can support competition among arbitral institutions rather than replace it. Parties would retain freedom of choice, while smaller institutions could gain access to security and technology that might otherwise be financially inaccessible.

The proposed "Tashkent ADR Center" should therefore be conceived primarily as an infrastructure and service platform. Its possible functions would include secure hearing facilities, digital case management, technical support, cybersecurity assistance, electronic evidence storage, transcription, interpretation, training, and methodological support. Governance arrangements should guarantee that the Center does not influence the substantive or procedural decisions of independent arbitral tribunals.

The "Samarkand ADR Platform" would perform a different function. Its purpose would be professional and regional cooperation rather than case administration. It could facilitate dialogue among arbitration and mediation communities in Central Asia, joint research, exchange of model protocols, training programs, and discussion of cross-border digital procedure. Such a platform could contribute to gradual convergence of professional standards without requiring harmonization of national arbitration laws.

The model also responds to the risk that rapid technological change may make detailed technology-specific regulation obsolete. A technology-neutral framework can remain applicable when platforms, authentication technologies, AI systems, and data-storage models change. The law should therefore define outcomes—reliable identification, procedural equality, confidentiality, integrity of evidence, security, and accountability—while allowing institutions to select appropriate technical means [7, pp. 851–864].

The most significant limitation of the present study is the limited availability of open empirical data concerning digital hearings, cybersecurity incidents, electronic evidence, and AI use in arbitration in Uzbekistan. The conclusions are therefore primarily based on normative, doctrinal, comparative, and functional analysis. Further research should include empirical surveys and expert interviews with arbitrators, counsel, mediators, experts, and representatives of arbitral institutions.

Conclusion

Digital transformation of international commercial arbitration in Uzbekistan is an objective process that can increase procedural accessibility, reduce organizational costs, and strengthen the attractiveness of the national dispute-resolution environment. At the same

time, technology does not automatically improve arbitration. Its legal value depends on whether it reinforces, rather than weakens, procedural equality, the right to be heard, confidentiality, cybersecurity, and arbitral independence.

The study leads to five principal conclusions. First, Uzbekistan already possesses a substantial legal foundation for digital arbitration, but the relevant rules are dispersed and require functional integration. Second, online and hybrid hearings and electronic evidence should be supported by clear procedural standards rather than left to ad hoc institutional practice. Third, cybersecurity and confidentiality require risk-proportionate institutional protocols. Fourth, AI should be treated as an auxiliary tool subject to human ultimate procedural responsibility. Fifth, digital transformation requires shared infrastructure and professional development in addition to legal reform.

For practical implementation, it is advisable to develop model rules for digital arbitral proceedings; establish national shared infrastructure through a "Tashkent ADR Center"; create a "Samarkand ADR Platform" for regional cooperation; introduce specialized training for arbitrators, counsel, experts, and arbitral secretaries; and develop interoperable standards for electronic identification, evidence management, cybersecurity, and responsible AI use. This model would allow Uzbekistan to move from fragmented digital tools toward an integrated and internationally compatible digital arbitration ecosystem.

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International Journal of Justice

THE LEGAL NATURE OF SUBSIDIARY LIABILITY IN INSOLVENCY PROCEEDINGS INVOLVING AGRICULTURAL BUSINESS ENTITIES

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Abstract. *This article provides a comprehensive analysis of the legal nature and practical application of the subsidiary liability of persons controlling agricultural business entities in insolvency proceedings. The study examines inconsistencies between the provisions of the Civil Code and the Law of the Republic of Uzbekistan "On Insolvency", as well as factors arising from the seasonal nature of agricultural production and the specific characteristics of biological assets. Based on the findings, the article advances an original doctrinal concept and a set of scientific and practical proposals aimed at reconsidering the requirement of establishing the relevant circumstances by a court decision and defining the complex legal nature of subsidiary liability as combining tortious and additional property liability.*

Keywords: *Insolvency, subsidiary liability, agricultural business entities, controlling persons, agricultural clusters, creditors' rights, corporate governance, standards of good faith and reasonableness.*

Effective protection of creditors' proprietary rights is one of the fundamental objectives of modern insolvency law. Where the assets of an insolvent debtor are insufficient to satisfy creditors' claims, the principle of the separate property liability of a legal entity may create a risk that persons who have exercised decisive influence over the debtor's activities evade personal liability for conduct that has contributed to the debtor's insolvency. Consequently, the institution of subsidiary liability has evolved as an important legal mechanism for reconciling the principle of the legal entity's separate legal personality with the requirements of good faith, creditor protection, and responsible corporate governance.

These problematic issues become particularly relevant in the context of agricultural business entities. Insolvency of agricultural business entities and the resulting failure to satisfy creditors' claims may not only infringe upon their proprietary interests but also undermine the principles of trust, good faith, and property liability underlying civil transactions. In particular, where the debtor's assets are insufficient to satisfy creditors' claims, the institution of subsidiary liability assumes particular importance as an effective legal mechanism for protecting creditors' rights [1]. Agricultural business entities operate under economic conditions that differ significantly from those of many other commercial sectors. Their financial condition may depend on the seasonal nature of production, climatic conditions, the biological characteristics of agricultural assets, state subsidies, preferential financing, agricultural clusters, cooperatives, as well as extended production and investment cycles.

Accordingly, insolvency in the agricultural sector may arise not only from managerial

errors or misconduct but also from objectively adverse economic conditions. This distinction is of fundamental importance when determining whether subsidiary liability should be imposed. The mere fact that an agricultural business entity has become insolvent cannot, in itself, constitute grounds for automatically imposing the debtor's obligations on its founders, managers, owners, or other controlling persons. At the same time, sector-specific economic risks must not become a means of concealing intentional or negligent conduct that has caused substantial harm to creditors.

Pursuant to Article 329 of the Civil Code [2], subsidiary liability constitutes additional property liability that arises only where the principal debtor fails to perform its obligation. Its legal essence lies in the requirement that the creditor must first assert a claim against the principal debtor, and only if such claim remains unsatisfied or is not performed within a reasonable period does the right arise to bring a claim against the person bearing subsidiary liability. In insolvency relations, however, once the debtor has been declared insolvent and liquidation proceedings have been initiated, authorized persons and the insolvency administrator are entitled to apply to the court for the imposition of subsidiary liability (Article 71 of the Law of the Republic of Uzbekistan "On Insolvency").

As noted in the scholarly literature [3], subsidiary liability does not replace the principal liability but supplements it; therefore, it arises only when it is established that performance of the principal debtor's obligation is impossible or ineffective. Accordingly, subsidiary liability does not constitute an independent obligation but rather represents additional civil liability arising from the failure to perform the principal obligation. Its legal nature is manifested not in substituting for the principal obligation, but in serving as an additional legal safeguard aimed at ensuring the rights and legitimate interests of creditors.

This regulatory framework raises an important theoretical question: should subsidiary liability in insolvency proceedings be understood as a specific form of the general civil-law institution of subsidiary liability, or should it be recognized as an independent institution of insolvency law with its own legal grounds, functions, evidentiary framework, and procedural mechanisms?

The significance of subsidiary liability is particularly pronounced in insolvency relations, especially in the context of the insolvency of agricultural business entities. This is primarily attributable to the widespread use of state subsidies, preferential lending, agricultural clusters, cooperative arrangements, and seasonal production processes in the agricultural sector. In this context, the debtor's bad-faith conduct may adversely affect not only creditors but also the interests associated with public funds, state support programs, and other participants in economic relations.

Accordingly, subsidiary liability in insolvency law should not be regarded merely as a form of additional liability. Rather, it constitutes a specialized legal institution designed to ensure effective protection of creditors' rights, preserve the insolvency estate, promote good faith in corporate governance, and safeguard the stability of economic relations. As scholars of legal practice have emphasized, the modern institution of civil liability performs not only a compensatory function but also preventive, regulatory, and law-educational functions.

From this perspective, subsidiary liability in insolvency relations serves not only as a means of satisfying creditors' claims but also as a legal mechanism encouraging persons who effectively control the activities of a legal entity to act in good faith and with due diligence. This, in turn, necessitates assessing the legal nature of subsidiary liability beyond the framework of the general civil-law institution and recognizing it as an independent and distinctive institution of insolvency law.

This study substantiates the view that the second approach is more consistent with contemporary trends in the development of insolvency law. Although subsidiary liability retains its characteristic ancillary nature as an institution of civil law, its application in insolvency proceedings is based on a substantially different legal framework. In particular, the decisive issue is not merely the debtor's failure to perform its obligations, but the existence of a legally significant causal connection between the conduct of the controlling person, the deterioration of the debtor's financial condition, and the loss of the possibility of satisfying creditors' claims.

Accordingly, the purpose of this study is to elucidate the theoretical essence of subsidiary liability in insolvency proceedings involving agricultural business entities and, through a comparative analysis of selected CIS legal systems, to identify directions for improving the legislation of Uzbekistan.

In the course of the study, the legislation of the Republic of Uzbekistan governing civil liability and insolvency, as well as established scholarly and doctrinal approaches developed by legal scholars in the CIS countries, were examined. Several complementary methodological approaches were employed.

The scholarly literature reveals the absence of a unified approach to the legal nature and substantive content of subsidiary liability within insolvency relations. In particular, V. N. Alferov approaches subsidiary liability as an economic and legal category, associating it with the bad-faith conduct of persons controlling the debtor, that is, conduct contrary to the principles of good faith, which has resulted in the debtor's insolvency [4]. Legal scholar K. I. Evteev, by contrast, characterizes subsidiary liability as liability of a tortious nature. In his view, such liability may arise where the debtor's assets are insufficient to satisfy creditors' claims and the improper conduct of controlling persons has caused the debtor's insolvency [5].

Emphasizing that subsidiary liability is aimed at protecting the proprietary interests of creditors, Yu. S. Bespalov notes that its principal function is to secure the creditor's unsatisfied property claim through the assets of an additional liable person [6]. B. M. Gongalo, in turn, regards subsidiary liability as an additional legal mechanism that arises alongside the liability of the principal debtor [7].

Legal scholarship also identifies as a distinctive feature of this institution the requirement that, before bringing a claim against a person bearing subsidiary liability, the creditor must first demand performance of the obligation from the principal debtor. Subsidiary liability arises only where such demand remains unsatisfied or performance by the principal debtor is impossible [8].

In our view, these approaches are not mutually exclusive; rather, they reflect different legal dimensions of the institution of subsidiary liability. On the one hand, the unlawful and culpable conduct (or omission) of

the controlling person is of decisive importance for the emergence of such liability. On the other hand, its principal function is to restore the "property balance" by covering creditors' unsatisfied claims where the debtor's assets are insufficient to satisfy them.

Under general civil law, subsidiary liability traditionally has an ancillary character. The creditor must first demand performance of the obligation from the principal debtor and may only subsequently bring a claim against the person bearing subsidiary liability if the principal obligation remains unperformed. From this perspective, subsidiary liability does not replace the principal obligation but, rather, creates an additional source for satisfying the creditor's claim.

However, in insolvency relations, the practical and legal substance of this mechanism changes considerably. Where the debtor's assets are insufficient to satisfy creditors' claims, the principal legal issue is not merely the debtor's failure to perform its obligations. Rather, the central question is whether such insufficiency has resulted from, or has been materially aggravated by, the conduct of a person exercising control over the debtor.

Accordingly, subsidiary liability in insolvency proceedings encompasses, at a minimum, the following interrelated elements: first, the existence of the debtor's insolvency; second, the existence of a person who exercises actual or legally recognized control over the debtor; third, the existence of unlawful or culpable conduct attributable to such person; and fourth, a causal link between such conduct and the loss of the possibility of satisfying creditors' claims.

This structure demonstrates that subsidiary liability in the context of insolvency possesses distinctive features that cannot be fully explained by the traditional civil-law model of subsidiary liability.

At the same time, it would also be theoretically inaccurate to characterize it exclusively as tort liability. While its compensatory function is intrinsically linked to the ancillary nature of liability, its preventive function is associated with the legal regulation of corporate governance and the conduct of controlling persons. Therefore, the most appropriate approach is to recognize subsidiary liability as a specialized civil-law institution within insolvency law. It constitutes a legally established exception to the principle of the separate property liability of a legal entity and applies where the conduct of a controlling person has caused the debtor to become unable to perform its obligations to creditors.

This approach also makes it possible to distinguish subsidiary liability from ordinary liability for damages. The object of subsidiary liability is not limited to compensation for loss caused by an individual civil-law violation. Its broader purpose is to restore the possibility of satisfying creditors' claims where the insolvency estate has become insufficient as a result of the conduct of a controlling person.

The legal grounds for subsidiary liability may, from a theoretical perspective, be classified into three principal categories: statutory, contractual, and tortious grounds.

A statutory ground derives directly from legal provisions establishing the liability of controlling persons in insolvency proceedings. A contractual ground may arise where a person assumes additional liability pursuant to a contract concluded in accordance with the law. Such liability, however, must not conflict with the mandatory provisions governing insolvency. A tortious ground arises where

unlawful conduct causes damage to creditors or contributes to the debtor's insolvency.

In contemporary civil-law doctrine, the legal grounds for subsidiary liability are interpreted more broadly. It has been emphasized that such liability is not limited exclusively to contractual or tortious grounds but is also closely connected with corporate relations through the rules established in the constituent documents (charter) governing the activities of a legal entity [9].

However, in our view, recognizing constituent documents (the charter) as an independent legal source of subsidiary liability is theoretically debatable. A charter does not, in itself, give rise to civil liability; rather, it constitutes an internal corporate instrument that specifies the content and scope of corporate obligations established by law. Therefore, a breach of the charter's provisions should not be regarded as an independent ground for subsidiary liability but rather as an additional legal fact capable of giving rise to liability based on statutory or tortious grounds.

From this perspective, it is appropriate to systematize the legal grounds for subsidiary liability in insolvency relations involving agricultural business entities. These grounds should be defined as arising from statutory provisions, contracts, and tortious conduct, while constituent documents should be regarded as a corporate-law criterion facilitating the implementation of such grounds. Such an approach is both doctrinally and practically justified.

The Law of the Republic of Uzbekistan "On Insolvency" establishes a special legal mechanism for imposing subsidiary liability. Article 69 of the Law defines a person controlling the debtor's affairs, including a person who has the right to issue binding instructions, the ability to determine the debtor's activities, in certain circumstances owns more than half of the debtor's charter capital, or has the authority to appoint or elect the head of the debtor.

Article 70 establishes the substantive legal grounds for subsidiary liability. Where the insolvency of a legal entity has resulted from the unlawful actions of a person entitled to issue binding instructions, the owner of the legal entity's property, or another person controlling the debtor's affairs, and the debtor's assets are insufficient to satisfy creditors' claims, such person may be held subsidiarily liable.

This provision combines two elements that are often considered separately in legal doctrine: the ancillary nature of liability and the unlawful conduct of the controlling person. Therefore, the Uzbek model can be regarded as neither a fully classical model nor a purely tort-based model. Rather, it represents a hybrid legal mechanism in which the insufficiency of the debtor's assets creates the need for an additional claim, while the unlawful conduct of the controlling person constitutes the substantive legal basis for imposing the obligation on that person.

The insolvency legislation of the Russian Federation provides a comparatively developed mechanism for regulating the liability of controlling persons. Under the Federal Law of the Russian Federation "On Insolvency (Bankruptcy)," a controlling person may be held subsidiarily liable where, as a result of that person's actions or omissions, it becomes impossible to fully satisfy creditors' claims. The legislation also establishes presumptions relating to transactions causing substantial harm to creditors, the absence or

distortion of accounting records, and certain forms of unlawful conduct.

This approach is of particular theoretical significance because it shifts the focus from the formal existence of control to the economic consequences of the conduct of the controlling person.

Russian legislation also provides a controlling person with the possibility of avoiding liability by demonstrating the absence of fault, in particular by proving that he or she acted reasonably and in good faith under the ordinary conditions of civil transactions, acted in the interests of the debtor, and did not violate the proprietary rights of creditors. Thus, this model reflects a more differentiated approach to the allocation of the burden of proof.

In our view, this approach is particularly important in the context of agricultural insolvency. Agricultural enterprises may become insolvent as a result of droughts, excessive rainfall, crop diseases, livestock losses, market fluctuations, export restrictions, or other objective and unforeseeable circumstances. Such factors should not, in themselves, automatically result in the imposition of subsidiary liability on managers or owners.

One of the most important theoretical and procedural issues concerns the evidentiary significance of establishing unlawful conduct in a prior judicial decision. A court finding that a transaction is invalid, a judicial determination of fraud or intentional insolvency, or the judicial establishment of another unlawful act may constitute important evidence of unlawful conduct. However, treating the prior judicial establishment of such circumstances in every case as an absolute procedural prerequisite for imposing or determining subsidiary liability may result in unnecessary duplication of proceedings.

At the same time, this issue must be approached with due caution. Procedural simplification should not undermine the right of the person subject to liability to defend themselves or deprive the controlling person of the opportunity to present evidence demonstrating the absence of fault or a causal connection between their conduct and the debtor's insolvency.

As legal scholar U. Kholmirzaev has rightly noted, the unlawful conduct of a participant itself may be sufficient to cause a legal entity to become insolvent, whereas requiring intent or other additional mandatory elements is inconsistent with the legal nature of subsidiary liability [10]. In practice, such an approach requires the fact of the unlawful conduct to be established separately through judicial proceedings before a claim for subsidiary liability can subsequently be brought.

As a result, the establishment of unlawful conduct and the imposition of subsidiary liability become separate legal proceedings, which may lead to unnecessary duplication of judicial proceedings, increase the procedural burden involved in protecting creditors' rights, and prolong the resolution of the dispute. This, in turn, may limit, to a certain extent, the compensatory function of subsidiary liability aimed at ensuring the prompt and effective satisfaction of creditors' claims.

Therefore, in our view, it is necessary to improve the mechanism for imposing subsidiary liability under Article 70 of the Law. In particular, the legal requirement that the relevant unlawful conduct must have been previously established exclusively by another judicial act should be reconsidered. Such an

approach may result in the establishment of the unlawful conduct and the imposition of subsidiary liability being resolved in two separate judicial proceedings, which is inconsistent with the function of subsidiary liability as an instrument for the prompt and effective satisfaction of creditors' claims.

A differentiated approach to insolvency in the agricultural sector is necessary because the causes of financial difficulties in agriculture differ significantly from those encountered in many other sectors. First, agricultural production is inherently seasonal. Revenue may be generated within a relatively short period, whereas production expenditures are incurred over a considerably longer period. Second, agricultural assets are particularly vulnerable to biological and climatic risks, and a substantial decline in crop yields or livestock productivity may seriously impair the debtor's ability to perform its obligations to creditors. Third, agricultural enterprises frequently rely on state subsidies and preferential financing. Consequently, unlawful conduct may harm not only the interests of private creditors but also those associated with public financial resources.

Fourth, agricultural enterprises may operate within complex contractual and organizational relationships involving agricultural clusters, cooperatives, processing enterprises, suppliers, banks, and participants in state support programs. These specific characteristics require a more nuanced approach to establishing a causal connection.

Accordingly, the legal framework should distinguish between ordinary entrepreneurial risk and the unlawful creation or aggravation of such risk. This distinction constitutes one of the principal theoretical criteria for determining whether subsidiary liability should be imposed on agricultural business entities.

The analysis led to a number of key scientific conclusions.

First, subsidiary liability in insolvency should not be regarded as merely a traditional form of ancillary civil liability but should be recognized as a specialized institution of insolvency law. Its distinctive nature is determined by the combination of functions related to creditor protection, corporate accountability, preservation of the insolvency estate, and preventive regulation.

Second, a distinction should be drawn between formal and actual control when imposing subsidiary liability. A person's formal corporate status should not automatically give rise to liability where that person did not exercise decisive influence over the debtor's activities.

Third, the insufficiency of the debtor's assets may be regarded as a necessary condition for the practical imposition of subsidiary liability, but it should not constitute an independent ground for liability. The decisive issue is whether the conduct of the controlling person had a substantial causal impact on the occurrence or aggravation of such insufficiency.

Fourth, insolvency in the agricultural sector requires due consideration of objective economic and natural risks. The mere existence of insolvency does not, in itself, establish the fault of a controlling person.

Fifth, the comparative analysis demonstrates the appropriateness of using rebuttable presumptions in cases involving the concealment or material distortion of accounting records, as well as transactions that have caused substantial harm to creditors.

Sixth, the procedural mechanism should prevent unjustified duplication of judicial proceedings. Where necessary, the relevant unlawful conduct should be assessed within the proceedings concerning subsidiary liability itself, while fully safeguarding the procedural rights of the person subject to liability.

Based on the foregoing analysis, several directions for improving the legal framework may be proposed.

First, Article 70 of the Law of the Republic of Uzbekistan "On Insolvency" should more clearly distinguish the following elements of subsidiary liability: the existence of insolvency; the person's status as a controlling person; unlawful acts or omissions; fault; a causal connection between such conduct and the loss of the possibility of satisfying creditors' claims; and the insufficiency of the debtor's assets.

Second, the legislation should establish rebuttable evidentiary presumptions in circumstances that can be objectively verified. Such circumstances may include:

- concealment or destruction of accounting records;
- material distortion of financial information;
- transfer of assets to affiliated persons without adequate consideration;
- entering into transactions causing substantial harm to creditors;
- diversion of agricultural subsidies or preferential loan funds for purposes other than those for which they were provided;
- concealment of agricultural income or production assets.

Such presumptions should be rebuttable and should not, by themselves, automatically give rise to subsidiary liability.

Third, the legislation should expressly identify objective agricultural risks as circumstances that must be assessed by the court when determining causation and fault. Climatic disasters, crop failure, livestock diseases, abrupt market fluctuations, and other objectively verifiable circumstances should be distinguished from conduct committed intentionally or through negligence.

Fourth, Article 70 of the Law should provide that transactions declared invalid by a court, instances of fraudulent or intentional insolvency established by a final and binding judicial decision, and other unlawful conduct should not constitute absolute procedural prerequisites for imposing subsidiary liability, but rather should be treated as evidentiary circumstances subject to judicial assessment. As a procedural mechanism, the court hearing the subsidiary liability claim should be authorized to assess the relevant unlawful conduct within the same proceedings. At the same time, a final and binding judicial decision establishing such conduct should be accorded significant evidentiary weight when determining liability.

This approach would, on the one hand, preserve the ancillary (secondary) legal nature of subsidiary liability and, on the other hand, eliminate the need to establish the underlying unlawful conduct in separate prior judicial proceedings, thereby enhancing the procedural efficiency of applying this institution in judicial practice.

Fifth, the legislation should establish clear criteria for determining the amount of subsidiary liability. As a general rule, the amount of liability should correspond to the portion of creditors' claims that remains unsatisfied as a result of the conduct of the controlling person. At the same time, the court should be empowered to reduce the amount of liability where the controlling person proves

that the actual loss caused by his or her conduct was substantially lower.

Thus, the amount of subsidiary liability should be linked to the total amount of creditors' unsatisfied claims, while allowing for a reduction of liability where the controlling person demonstrates that the actual damage attributable to his or her conduct was considerably less.

Conclusion

Subsidiary liability in insolvency proceedings constitutes a complex legal institution situated at the intersection of civil, corporate, and insolvency law. Although its traditional ancillary nature retains its significance, this characteristic alone cannot fully explain the contemporary structure of liability imposed on persons controlling an insolvent debtor.

The findings of this study demonstrate the need to conceptualize subsidiary liability as a specialized civil-law institution within insolvency law. This institution is intended to maintain a balance between the principle of the separate property liability of a legal entity and the need to prevent persons who have unlawfully impaired the possibility of satisfying creditors' claims from abusing the legal separateness of the entity for their own benefit.

This issue is of particular importance in the context of agricultural insolvency. The relatively low profitability of agricultural business entities, combined with their significant exposure to seasonal, climatic, biological, financial, and market risks, requires a clear distinction between objectively justified insolvency and insolvency caused or materially aggravated by unlawful conduct. Such differentiation is essential for ensuring a fair and proportionate application of subsidiary liability to agricultural business entities.

A comparative analysis of Uzbekistan and selected CIS countries demonstrates that effective legal regulation requires a combination of substantive and procedural mechanisms. Such mechanisms include clearly defining controlling persons, introducing differentiated rebuttable presumptions of evidence, reasonably allocating the burden of proof, recognizing objective agricultural risks, and ensuring that disputes concerning subsidiary liability are resolved within a single set of proceedings where appropriate.

Accordingly, further development of Uzbekistan's insolvency legislation should not be aimed at unjustifiably expanding the scope of subsidiary liability, but rather at establishing a balanced model of liability. Such a model should simultaneously protect creditors, preserve the insolvency estate, prevent abuses by controlling persons, and protect managers and owners who have acted in good faith from unjustified liability for insolvency resulting from legitimate entrepreneurial activity and inherent agricultural risks.

This approach would contribute to the development of a more coherent legal framework for the insolvency of agricultural business entities and strengthen the principles of good faith, responsible corporate governance, and effective creditor protection.

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

CIVIL LAW ASPECTS OF GOODS DELIVERY BY SELF-EMPLOYED COURIERS

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Abstract. *This article examines the civil law aspects of goods delivery by self-employed persons engaged in courier services in the context of the digital economy and the rapid growth of electronic commerce. It analyzes the legal status of self-employed couriers, the specific features of concluding and performing delivery contracts, the allocation of civil liability among marketplaces, sellers, couriers, and consumers, as well as mechanisms for protecting the rights of the parties involved. Based on a comparative legal analysis of international experience, the article proposes recommendations for improving the legislation of the Republic of Uzbekistan governing courier activities performed by self-employed persons.*

Keywords: *self-employed persons, courier services, goods delivery, electronic commerce, civil law, digital platforms, marketplaces, delivery contract, civil liability.*

In the context of the emerging digital civil marketplace, marketplaces function as optimized online platforms that facilitate the provision of goods and services for consideration under contracts concluded within the framework of electronic commerce.

The rapid expansion of commercial transactions between online trading platforms and consumers across different regions and countries has significantly stimulated the development of courier services, which have become an indispensable component of the modern e-commerce ecosystem.

The term *courier* (French: *courrier* – "messenger"; derived from the Latin *currere* – "to run" or "to move quickly") historically referred to a messenger responsible for delivering documents and correspondence. In the digital era, however, the concept has acquired a broader legal meaning. A courier is understood as a natural or legal person who delivers goods and documents at the customer's request pursuant to a contract concluded through electronic commerce.

According to the *Regulation on the Procedure for Conducting Courier Service Activities in Electronic Commerce*, approved by Order No. 1 of the Director of the National Agency for Perspective Projects of the Republic of Uzbekistan dated 16 May 2025, a courier is defined as a natural person, including a self-employed individual, who provides goods delivery services on the basis of employment contracts and/or civil law contracts concluded with business entities, manufacturers and/or sellers of goods, catering establishments, and delivery service operators.

Delivery services are understood as an integrated service encompassing a range of operations, including the collection of goods from the seller, their transportation, delivery to the purchaser, and, where applicable, the collection of payment.

A contract for the provision of goods delivery services shall be concluded in accordance with the Civil Code of the Republic of Uzbekistan, the Law of the Republic of

Uzbekistan *On Electronic Commerce*, and other applicable legislative acts.

An order for goods delivery services may be placed by either the purchaser or the seller through the information system of an electronic commerce operator or by any other method provided for in the agreement between the parties. The terms and conditions governing the delivery service, including the delivery period, price, method of delivery, delivery area, and other relevant parameters, shall be communicated to the purchaser at the time the order is placed.

Thus, courier delivery in electronic commerce constitutes the provision of a remunerated service aimed at ensuring the prompt and reliable delivery of goods ordered in accordance with the terms of electronic contracts. The principal advantage of this service lies in its ability to satisfy the individual needs of consumers while ensuring maximum efficiency, convenience, and reliability.

Order collection points operate throughout the country, enabling consumers to receive goods purchased through online marketplaces. The prompt delivery of goods under electronic commerce contracts has become a key driver of innovative economic growth, enhancing the competitiveness of sellers and contributing to the improvement of citizens' social welfare.

In an effort to save time and reduce transaction costs, an increasing number of consumers choose the courier services offered by electronic trading platforms, which provide convenient and efficient solutions for the transportation of goods, ensuring their delivery from the supplier to the final consumer.

Courier services in electronic commerce facilitate the provision of both local and regional delivery services while reducing the risks and liabilities borne by sellers by acting as intermediaries in the performance of delivery obligations.

The organization of courier delivery depends on the company's business model, the terms of the contract, the geographical scope of operations, and its logistical capabilities. Under one model, the seller delivers goods to a regional distribution warehouse, from which the courier service dispatches orders to customers. Under another model, couriers collect parcels directly from the seller's premises for subsequent delivery to consumers.

Courier service providers frequently consolidate multiple orders destined for the same geographical area, thereby optimizing delivery routes, reducing transportation costs, and expediting the delivery process. By coordinating deliveries within specific regions, courier services minimize unnecessary trips and are able to complete multiple deliveries during a single working day, significantly enhancing the efficiency of logistics operations.

Businesses may engage multiple courier service providers to fulfil delivery orders; however, some companies prefer to cooperate with a single long-term logistics partner. The choice of delivery model generally depends on the geographical coverage of the service and the economic efficiency associated with wholesale or contractual delivery arrangements.

According to empirical research, more than 90% of online shoppers expect their purchases to be delivered within two to three days, while approximately 30% anticipate receiving their orders on the same day they are placed. Furthermore, around 66% of consumers expect free delivery for all online purchases, and nearly 70% of shopping cart

abandonment cases are attributable to high delivery costs.

A notable example of cross-border electronic commerce is the eBay marketplace, through which consumers may purchase goods for delivery to Uzbekistan. The U.S. eBay platform has been operating for more than two decades and is accessible in 37 countries. Approximately half a million transactions are conducted on the platform each day, and it has more than 155 million active users.

However, eBay does not currently provide direct delivery services to Uzbekistan, making the direct shipment of purchased goods unavailable. This logistical gap is addressed by intermediary delivery services such as Meest Shopping, which facilitate the transportation of goods purchased on eBay to Uzbekistan. Through this service, consumers may purchase products via the Polish, German, or United Kingdom branches of the American company. Such arrangements broaden consumers' access to a wider range of goods and enhance the attractiveness and development of cross-border electronic commerce.

It should be emphasized that the mobility of couriers and the optimization of logistics routes enable goods to be delivered to the designated address within the shortest possible time, thereby providing a significant competitive advantage over traditional delivery models.

Accordingly, courier services play a pivotal role in the evolving digital civil marketplace by ensuring the prompt, reliable, and destination-specific delivery of goods to end consumers.

It should also be noted that the legal regulation of courier services provided through electronic trading platforms is intended to ensure the quality of remunerated courier services, safeguard the rights and legitimate interests of consumers and other participants in the digital marketplace, and guarantee compliance with technological safety standards and the legal requirements governing this sphere of activity.

Courier activities carried out through electronic trading platforms are generally not subject to mandatory licensing. However, activities involving the transportation of certain categories of goods, such as pharmaceuticals or other regulated cargo, may require the appropriate licenses, permits, or certificates in accordance with applicable legislation.

Courier service providers operating through electronic trading platforms conclude civil law contracts with their customers that establish the essential terms governing the remunerated provision of goods delivery services. Such contracts constitute the principal legal instrument defining the rights and obligations of the parties, the terms and conditions of delivery, the cost of the services, and the procedures for the settlement of disputes.

A contract for the remunerated provision of courier services in the delivery of goods within electronic commerce constitutes both a legal fact and a legal act, giving rise to, modifying, or terminating the civil rights and obligations of the parties in accordance with the terms of the agreement.

As is well established, many courier service providers operating through electronic trading platforms conduct their business on the basis of a public offer published on their official websites. Such a contract is deemed to have been concluded upon the customer's acceptance of the terms of the public offer.

The contract should clearly define the courier service provider's liability for the loss of, damage to, or delay in the delivery of goods. Customers are entitled to a comprehensive set of rights protected under consumer protection legislation, including the right to receive complete and accurate information regarding the services provided, their cost, delivery timeframes, and the terms and conditions governing the performance of the order.

Courier service providers are required to perform their services in accordance with the agreed contractual terms and established quality standards. In the event of a breach of contract, including the loss of or damage to goods or an unreasonable delay in delivery, the customer is entitled to claim compensation for damages in the manner prescribed by civil legislation.

Furthermore, courier service providers operating through electronic trading platforms collect and process customers' personal data, which necessitates strict compliance with personal data protection legislation. The personal data of both the customer and the service provider may be processed only with the relevant data subject's consent and exclusively for the purpose of providing courier services. In this regard, courier service providers are obligated to ensure the confidentiality and security of digital data by protecting it against unauthorized access, alteration, disclosure, or data breaches. Customers must be informed in advance about the categories of personal data collected, the purposes for which such data will be used, and the safeguards applied to protect it in accordance with applicable legislation and the terms of the contract.

The remunerated provision of courier services through electronic trading platforms constitutes a specific type of economic activity that may be carried out under the self-employment regime on the basis of an agency agreement. Accordingly, where a courier provides delivery services pursuant to an agency agreement, registration as an individual entrepreneur is generally not required.

The generally accepted operational requirements applicable to courier services provided through electronic trading platforms include:

- compliance with the minimum delivery periods stipulated in the contract;
- obtaining the customer's acknowledgment of receipt upon delivery of the goods as evidence of successful delivery;
- and ensuring that goods are delivered within the agreed timeframes and in their original condition, free from loss or damage, irrespective of the value, weight, or dimensions of the shipment.

At present, Uzbekistan has a wide range of electronic commerce courier service providers offering services tailored to consumers' needs, including the delivery of food products, pharmaceuticals, and other socially significant goods.

Accordingly, the legal regulation of courier activities in electronic commerce plays a crucial role in ensuring the reliability, transparency, and lawfulness of the digital marketplace, while also strengthening consumer confidence in online platforms and their delivery services.

A systematic analysis demonstrates that many logistics professionals may lawfully provide courier services under the self-employment regime without contravening the applicable legislation. Self-employed individuals are entitled to provide remunerated goods delivery services to commercial organizations,

provided that the organization grants them access to its online cash register (cash register equipment) for processing payments from customers and that such equipment is registered in the name of the selling organization.

Among self-employed individuals, courier delivery is one of the most popular forms of economic activity, as it does not require specialized professional qualifications and remuneration for completed deliveries is typically received promptly, either immediately after the delivery has been completed or at the end of the working shift.

In practice, couriers engaged in electronic commerce deliver goods using a variety of means of transport, including on foot, by electric scooters, bicycles, scooters, motorcycles, and motor vehicles, depending on the nature of the delivery service and logistical requirements.

Pursuant to Article 25 of the Law of the Republic of Uzbekistan No. LRU-792 *On Electronic Commerce*, dated 29 September 2022, where a contract includes a term requiring the delivery of goods, the seller is obligated to deliver the goods to the location designated by the purchaser within the period specified in the contract. For the purpose of fulfilling this obligation, the seller may:

- carry out the delivery independently using its own means of transport, unless otherwise provided by law;
- engage delivery service providers that are legally authorized to provide transportation services for goods (works and services); or
- employ any other method of delivery that is not prohibited by applicable legislation.

Where the applicable legislation requires the issuance of a waybill, the delivery of goods, works, or services within the framework of electronic commerce shall be carried out exclusively on the basis of an electronically issued waybill.

Where the delivery period is neither specified in the contract nor capable of being determined from its terms, the goods shall be delivered within a period not exceeding thirty days from the date on which the purchaser accepts the public offer. In the event of a delay in delivery, the seller shall bear liability in accordance with the applicable legislation.

Unless otherwise provided by the contract, the seller is required to deliver the goods to the purchaser and simultaneously provide all documents required by law, including, where applicable, the technical passport, certificate of conformity (or quality certificate), and instructions for use.

Unless otherwise provided by legislation, a retail sales contract shall be deemed to have been duly performed upon the delivery of the goods to the purchaser or to a person presenting a document confirming either the conclusion of the contract or the arrangement for delivery.

Pursuant to Resolution No. 806 of the Cabinet of Ministers of the Republic of Uzbekistan, dated 23 December 2020, the *Regulation on the Procedure for Carrying Out Activities as a Self-Employed Person* was approved. The Regulation establishes the notification-based procedure for the registration of self-employed persons and governs the exercise of self-employment activities.

Accordingly, natural and legal persons engaging self-employed individuals to perform work or provide services under contractual arrangements act as the customers of such works or services. Under the Regulation, a self-employed person is defined

as a citizen who independently carries out income-generating activities through the provision of services or the performance of work for natural and legal persons on the basis of personal labour, without being registered as an individual entrepreneur.

Self-employed persons are entitled to:

- have their period of self-employment recognized as part of their employment record;
- benefit from tax incentives and other privileges provided for by the applicable legislation; and
- be registered with the state tax authorities.

For the purpose of maintaining official records, a unified and systematized database (register) of self-employed persons has been established and integrated into the interdepartmental software and technical platform known as the *Unified National Labour System*. Upon registration, a self-employed person is issued an electronic certificate of registration through a dedicated mobile application or a personal online account, confirming his or her legal status as a self-employed person.

The establishment and maintenance of the register of self-employed persons are administered by the state tax authorities, and information concerning an individual's registration is automatically recorded in his or her electronic employment record.

A natural person registered as a self-employed individual is not required to undergo state registration as an individual entrepreneur. At the same time, self-employed persons are not permitted to employ hired workers and may not simultaneously perform work as employees under an employment contract.

Organizations are entitled to engage self-employed individuals to provide one-time services or perform specific works on the basis of a civil law contract. Remuneration paid to self-employed persons is not subject to the assessment of social tax.

Registration as a self-employed person may be completed through:

- a dedicated mobile application or the taxpayer's personal online account;
- the Unified Interactive Public Services Portal;
- the state tax authorities; or
- electronic trading platforms (marketplaces) integrated with the tax authorities.

In such cases, the registration application is submitted by the self-employed individual through biometric identification and an electronic signature, including the use of Face ID technology or other equivalent identification systems that have been officially certified by the Cybersecurity Directorate.

The registration of self-employed persons with the state tax authorities is carried out in accordance with Appendix No. 1 to the above-mentioned Regulation.

The registration application of a self-employed person must contain the following information:

- the Personal Identification Number of an Individual (PIN) (except where registration is completed by means of an electronic digital signature);
- the categories of activities (works and services) that may be carried out by self-employed persons, as approved by the Appendix to Resolution No. PP-4742 of the President of the Republic of Uzbekistan, dated 8 June 2020, *On Measures to Simplify the State*

Regulation of Entrepreneurial Activity and Self-Employment;

- the proposed place of carrying out the self-employment activity; and
- the mobile telephone number of the self-employed person together with other relevant contact information.

The registration application is automatically populated with information regarding the applicant's surname, given name, patronymic, passport (or ID card) series and number, and residential address, based on data contained in the information systems of the State Tax Committee of the Republic of Uzbekistan and the Ministry of Internal Affairs.

Self-employed persons are registered with the state tax authorities at the place where they carry out their self-employment activities.

A certificate of registration as a self-employed person containing a two-dimensional barcode (QR code) is generated through a dedicated mobile application or the user's personal online account in accordance with the template set out in Appendix No. 2 to the Regulation approved by Resolution No. 806 of the Cabinet of Ministers of the Republic of Uzbekistan, dated 23 December 2020. The certificate is issued in the official state language (Uzbek) and, at the request of the applicant, may also be issued in Russian, English, or, where technically feasible, in another language.

A self-employed person may download the certificate of registration in electronic form through the dedicated mobile application or personal online account, or obtain a hard copy from the state tax authorities. The certificate of registration as a self-employed person is issued for an indefinite period.

Self-employed persons are required to pay social tax once a year in an amount not less than 50% of the Basic Calculation Amount (BCA), irrespective of the actual period of work performed. The full amount of the social tax paid is transferred to the Extra-Budgetary Pension Fund under the Ministry of Finance of the Republic of Uzbekistan. On this basis, pensionable income is determined for the calculation of pension benefits in accordance with the procedure applicable to individual entrepreneurs.

Where a self-employed person ceases his or her activities, a notice of termination must be submitted to the state tax authorities through the dedicated mobile application or the personal online account prior to the actual cessation of the self-employment activity.

A notice of temporary suspension of a self-employed person's activities, once received by the state tax authorities, constitutes the legal basis for suspending the obligation to pay social tax for the period during which the individual does not carry out any self-employment activity.

Through the dedicated mobile application, self-employed persons are able to:

- accept orders and receive payment for services rendered or goods supplied;
- issue electronic invoices for services provided or goods sold to legal entities;
- maintain voluntary records of income and expenditure through the mobile application and subsequently use such records, including for the purposes of obtaining credit and/or determining tax liabilities;
- advertise goods, works, and services; and
- receive quality assessments of the services provided or goods supplied, together with customer reviews and feedback.

Self-employed persons are entitled to use cash register equipment and payment

terminals for settlements made by means of bank payment cards and to open bank accounts with commercial banks in accordance with the procedure established by the applicable legislation.

Commercial banks may extend credit to self-employed persons who maintain records of their income and expenditure through the dedicated mobile application, in accordance with the procedures applicable to individual entrepreneurs. Registration of a self-employed person with the state tax authorities constitutes the legal basis for receiving payments in foreign currency from non-residents into the individual's account with a commercial bank as remuneration for services rendered or work performed.

Civil law relationships between self-employed persons and the customers of services or works are governed by contractual arrangements and established commercial customs. A contract between a self-employed person and the customer may be concluded orally where this is consistent with established commercial practice, or in written form where required by the nature of the legal relationship or by agreement of the parties.

When concluding a contract, the parties are free to determine its terms and conditions, including the manner of performance of contractual obligations and the grounds for termination. The parties to the contract (transaction) shall perform their obligations in accordance with the Civil Code of the Republic of Uzbekistan. Any disputes arising from contractual relations shall be resolved either by mutual agreement of the parties or through judicial proceedings.

It should be noted that Resolution No. 885 of the Cabinet of Ministers of the Republic of Uzbekistan, dated 26 December 2024, *On Measures for the Further Development of Electronic Commerce in the Republic of Uzbekistan*, provides that, from 1 July 2025:

- electronic commerce operators, legal entities, individual entrepreneurs, and self-employed persons acting as sellers in electronic commerce, or providing goods delivery services or passenger transportation by passenger motor vehicles on the basis of customer orders, shall conduct all monetary settlements exclusively through designated bank accounts;
- income earned by self-employed persons from electronic commerce activities shall be credited to a separate bank account linked to the self-employed person's bank payment card; and
- the amount of funds credited to the separate bank account of a self-employed person shall be taken into account when determining revenue from the sale of goods, works, or services for the purpose of establishing whether the individual is liable to pay turnover tax.

With a view to creating a favourable legal environment for self-employed persons engaged in electronic commerce, Resolution No. 885 provides, inter alia, the following measures.

First, self-employed persons engaged in the delivery of goods, works, or services on the basis of customer orders, or in the transportation of passengers, are entitled to:

- deposit funds in advance into designated bank accounts for the subsequent transfer of payments to the supplier of goods, works, or services or to the relevant electronic commerce operator; and
- accept cash payments for delivered goods, works, or services. In such cases, they are permitted to retain cash in an amount equivalent

to the sum transferred to the supplier, without the obligation to deposit such cash through mandatory cash collection procedures.

Second, in order to promote the export of goods through electronic trading platforms, legal entities, individual entrepreneurs, and self-employed persons are permitted to dispatch goods sold to foreign markets by means of courier and postal services, including sales conducted through foreign electronic trading platforms, without the mandatory registration of foreign trade contracts in the Unified Electronic Information System for Foreign Trade Operations.

Furthermore, electronic trading platforms are required to integrate with the information systems of the tax and customs authorities of the Republic of Uzbekistan in order to ensure the transparency of commercial transactions and effective control over the movement of goods and financial flows.

According to the *Regulation on the Procedure for Conducting Courier Service Activities in Electronic Commerce*, approved by Order No. 1 of the Director of the National Agency for Perspective Projects of the Republic of Uzbekistan, dated 16 May 2025, the terms and conditions governing the provision of delivery services are to be determined by agreement among the participants in electronic commerce—including sellers, purchasers, the electronic commerce operator, and the delivery service operator—in accordance with the requirements of the Regulation and other applicable legislative acts.

The fundamental principles governing the provision of delivery services include:

Reliability – ensuring the integrity of the goods and preserving their consumer characteristics and commercial condition throughout the delivery process;

Timeliness – complying with the delivery timeframes agreed upon with the purchaser, while providing timely notification of any anticipated or actual delays;

Safety – complying with all applicable requirements designed to ensure the safety of both the goods and the courier; and

Transparency and Information – enabling the purchaser, where technically feasible, to track the status of the delivery and receive information regarding the estimated arrival time of the courier.

Acceptance of Payment

Delivery service operators and couriers (hereinafter referred to as *delivery service providers*) are entitled to accept payment from purchasers for goods and/or delivery services, including payment in cash, where such authority is provided for under the contract concluded with the seller or the electronic commerce operator. In doing so, they must comply with the applicable legal requirements, including the mandatory use of cash register equipment or the issuance of a receipt, whether in electronic or paper form.

Requirements for the Delivery of Food Products

When delivering food products, delivery service providers are required to comply with the applicable legislation, sanitary rules, sanitary standards, and hygiene regulations, and to ensure that vehicles and thermal containers (insulated delivery bags) are properly equipped in accordance with the prescribed food storage requirements.

In particular, the following requirements must be observed:

- vehicles, thermal containers, and packaging materials must be maintained in a clean and serviceable condition and be subject to regular cleaning and disinfection;

- packaging materials must be manufactured from food-contact-approved materials and must protect food products against contamination, animals, and insects;
- the following categories of goods must be transported separately:

raw and ready-to-eat food products;

chilled, frozen, and hot food products;

food and non-food products; and

strongly odorous food products and other goods, which must be transported in separate thermal containers or separated by insulated partitions;

- for perishable and temperature-sensitive food products, couriers must be provided with properly functioning thermal containers and, where necessary, temperature-monitoring devices, including temperature indicators and data loggers; and
- food products shall be handed over to the courier only in sealed packaging, which must be intact, clean, and free from any foreign odours.

Obligations of the Delivery Service Operator

A delivery service operator is required to:

- conclude employment contracts and/or civil law contracts with couriers;
- pay wages or contractual remuneration in a timely manner and in full;
- provide couriers with training on the requirements of applicable legislation, occupational health and safety standards, and delivery procedures using information systems;
- equip couriers, where necessary, with thermal containers, fiscal devices, identification badges, and special work clothing;
- establish and supervise procedures governing the delivery, receipt, and transfer of goods and monetary funds;
- organize the review and handling of consumer complaints;
- obtain the couriers' consent to the processing of their personal data and to the disclosure of such data to purchasers; and
- bear subsidiary liability for the safekeeping of goods until they are delivered to the purchaser.

Rights of the Delivery Service Operator

A delivery service operator is entitled to:

- engage couriers to provide delivery services;
- require couriers to comply with the applicable legislation, the provisions of the Regulation, and the operator's internal rules;
- provide couriers with vehicles and other operational resources; and
- receive payment for the services rendered.

Obligations of the Courier

A courier is required to:

- comply with the applicable legislation, traffic regulations, and sanitary and hygiene requirements;
- ensure the safekeeping of the goods, preserve the integrity of their packaging, and maintain the required temperature conditions during transportation;
- deliver the goods within the agreed delivery timeframes;
- use the mobile applications, navigation systems, and equipment provided by the delivery service operator;
- promptly notify the delivery service operator or the seller of any difficulties arising during the delivery process; and
- maintain the confidentiality of purchasers' personal data and information relating to orders.

Rights of the Courier

A courier is entitled to:

- accept cash payments for goods where permitted by law or contract;
- receive remuneration and any additional payments within the prescribed time limits; and
- refuse to perform a delivery where its execution would violate the law, endanger the courier's life or health, or where the goods fail to comply with the applicable legal requirements.

Prohibited Conduct

A courier is prohibited from:

- opening the packaging of goods without authorization;
- delivering goods to any person other than the purchaser specified in the order;
- using unsafe or unsuitable means of transportation;
- intentionally damaging or destroying goods;
- demanding payment in excess of the agreed amount;
- disclosing purchasers' personal data or information relating to orders; or
- performing delivery services while under the influence of alcohol, narcotic drugs, or toxic substances.

The effective implementation of the national legal framework, taking into account the continuing development of courier services performed by self-employed persons within electronic commerce, establishes the necessary legal foundations for ensuring the timely delivery of goods within the contractual time limits and for strengthening the confidence of participants in the digital marketplace.

Conclusions and Recommendations

1. Research Findings

The rapid development of electronic commerce has led to the emergence of a new category of participants in civil transactions, namely self-employed individuals providing courier services through digital platforms and online marketplaces. Despite the widespread adoption of this delivery model, the current legislation of the Republic of Uzbekistan, including the Law *On Electronic Commerce*, does not provide a comprehensive legal framework governing the legal status of self-employed couriers, the allocation of civil liability among the seller, the electronic commerce platform operator, and the courier, or the specific rules governing the conclusion and performance of delivery contracts within the digital environment.

Under contemporary conditions, the courier can no longer be regarded merely as the factual performer of delivery services. Rather, the courier has evolved into an independent participant in digital civil legal relations, simultaneously interacting with the electronic platform, the seller, and the consumer. This transformation necessitates the development of a new model of legal regulation founded on the principles of digital identification of market participants, transparency of algorithmic order allocation, a fair balance of the parties' interests, good faith in the performance of contractual obligations, and effective protection of consumer rights.

Accordingly, legislative reform should focus on formally recognizing the legal status of self-employed couriers as independent participants in electronic commerce, clearly defining their rights, duties, and the limits of their civil liability, while establishing effective legal mechanisms for the digital monitoring and enforcement of contractual obligations.

2. Proposals for Improving the Law of the Republic of Uzbekistan *On Electronic Commerce*

1. **Establish the legal status of self-employed couriers.** It is proposed to supplement the Law with a new provision defining a *self-employed courier* as follows:

"**A self-employed courier**" means a natural person duly registered in accordance with the law who provides goods delivery services through a digital platform or an electronic trading system without entering into an employment relationship with the platform operator.

2. **Define the legal status and obligations of digital platforms.** The Law should impose the following obligations on operators of online marketplaces:

to verify the identity of couriers;

to maintain an electronic register of delivery service providers;

to retain digital records relating to the performance of delivery services; and

to implement electronic confirmation of the transfer of goods.

3. **Regulate the allocation of civil liability.** The Law should expressly provide that:

the seller is responsible for the quality of the goods;

the courier is responsible for the safekeeping of the goods from the moment of receipt until delivery to the purchaser; and

the electronic platform operator is responsible for the proper functioning of the digital infrastructure and the accuracy of electronic information.

4. **Introduce digital confirmation of contractual performance.** The Law should recognize the fulfilment of delivery obligations through the use of:

QR codes;

electronic signatures;

biometric identification;

geolocation technologies;

photographic evidence; and

trusted digital timestamps.

Such digital confirmation should constitute legally admissible evidence of proper performance of contractual obligations.

5. **Introduce electronic delivery insurance.** The Law should provide for the possibility of voluntary or mandatory digital liability insurance for self-employed couriers engaged in the delivery of high-value goods.

6. **Regulate the use of artificial intelligence.** The Law should include a provision requiring that algorithms used for the allocation of delivery orders:

operate without discrimination;

ensure transparency of the allocation criteria; and

remain subject to review by the competent public authorities in the event of legal disputes.

7. **Introduce an Online Dispute Resolution (ODR) mechanism.** The Law should establish a mandatory pre-trial electronic dispute resolution procedure for disputes arising between:

consumers;

sellers;

couriers; and

operators of online marketplaces.

8. **Establish the concept of "digital liability."** Digital platform operators should be required to retain delivery-related digital records for a statutory minimum retention period so that such records may be used as admissible evidence in judicial or administrative proceedings.

9. **Introduce a separate chapter entitled "Delivery of Goods in Electronic Commerce."** It is proposed that the Law of the Republic of

Uzbekistan *On Electronic Commerce* be supplemented with a separate chapter comprehensively regulating:

the legal status of self-employed couriers;

the rights and obligations of sellers, platform operators, and couriers;

the conclusion and performance of digital delivery contracts;

the use of electronic evidence;

the application of artificial intelligence technologies in organizing delivery services;

the operation of Online Dispute Resolution (ODR) mechanisms; and

the civil liability regime applicable to participants in the digital logistics ecosystem.

3. Recommendations for Improving Law Enforcement Practice

1. **Establish a unified digital register of self-employed couriers.** Such a register would:

verify the legality of courier activities;

confirm the legal status of delivery service providers; and

reduce the risk of fraud.

2. **Introduce a standardized electronic delivery contract.** It is recommended that a model digital delivery contract be adopted for use between:

the online marketplace;

the seller;

the courier; and

the consumer.

3. **Promote the use of digital evidence in dispute resolution.** Courts should recognize the following as admissible forms of evidence:

GPS tracking data;

electronic receipts;

digital platform logs;

data generated by mobile applications;

electronic communications;

and QR code confirmation of the transfer of goods.

4. **Develop judicial guidance by the Supreme Court.** It is recommended that the Plenum of the Supreme Court adopt a resolution providing authoritative guidance on:

determining the moment at which delivery obligations are deemed to have been performed;

the allocation of liability among participants in electronic commerce;

the use and evidentiary value of digital evidence; and

the legal assessment of the conduct of online marketplace operators.

5. **Introduce a digital courier reliability rating system.** A unified digital rating system should be established on the basis of:

the number of successfully completed deliveries;

compliance with agreed delivery timeframes;

the number of substantiated consumer complaints;

and the overall quality of service provided.

6. **Strengthen digital legal literacy.** Regular training programmes should be organized for:

self-employed couriers;

operators of online marketplaces; and

other participants in electronic commerce.

7. **Implement a risk-based regulatory oversight model.** Government supervision should be based primarily on the analysis of digital data rather than routine comprehensive inspections. Such an approach would reduce the administrative burden imposed on compliant market participants while improving the efficiency of regulatory enforcement.

The implementation of these recommendations would address the existing

gaps in the legal regulation of electronic commerce, strengthen the protection of consumer rights, enhance legal certainty for self-employed couriers and online marketplace operators, and contribute to the sustainable development of electronic commerce and the digital economy of the Republic of Uzbekistan.

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

NATIONAL AND INTERNATIONAL EXPERIENCE IN LEGAL PROTECTION OF A COMPANY NAME: IMPROVING THE LEGISLATION OF UZBEKISTAN

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Abstract. *This article studies the issues of legal protection of rights to a company name, the legislation of Uzbekistan and the experience of a foreign state from a comparative legal perspective. The importance of a company name as an individualizing tool in the entrepreneurial activity of a legal entity, especially its relationship with a trademark and domain name, is substantiated. This article examines the principle of protection of company names without the obligation to register, established in Article 8 of the Paris Convention, international obligations under the TRIPS Agreement, and the legal approaches of Germany and the United Kingdom to the legal protection of a company name. It is emphasized that in the legislation of Uzbekistan, the absolute right to a company name arises from the moment of state registration of a legal entity, and at the same time, its protection in the digital environment, collocations between a company name and a trademark, the criterion for determining the likelihood of confusion, and the need to improve law enforcement practice. As a result of the studies, scientific and practical proposals were developed for national legislation on the protection of company names.*

Keywords: *company name, exclusive right, intellectual property, means of individualization, trademark, domain name, Paris Convention.*

Introduction

First of all, it is advisable to distinguish between the concepts of "protection" and "conservation". While protection is characterized by the restoration of a person's violated rights and the establishment of responsibility for them when their rights are violated, protection includes relations related to the legal guarantees of individual rights and legal liability measures applied to a person who violates these rights.

Studying the experience of developed countries in protecting rights to a company name and implementing its recommendations into our national legislation can be a guarantee of effective results. Today, in world practice, one of the most widely used means of individualization after a trademark is the company name, and the name of legal entities often includes the name of the owner of the enterprise (for example, "Nobel", "Toyota"), and in some cases, names corresponding to the field of activity and reputation of the company may be reflected. As a result of the popularity of the company name, it becomes an object of industrial property. And before this process, it brings prestige to the enterprise, strengthens the current position of the company in a competitive environment, and as a result, begins to acquire financial significance.

A company name is not only a requisite representing the official name of a legal entity, but also an intangible asset related to its market reputation, business reputation, and commercial activity. Therefore, the illegal use of a company name has a negative impact on the interests of the entrepreneur as well as on the rights of consumers.

However, in practice, there is no effective mechanism for determining the similarity of a

company name with a trademark, using a company name as a domain name, and protecting rights. Therefore, studying the advanced experience of foreign countries and adapting it to the legal system is important in protecting rights to a company name.

Material and methodology

The article uses formal-legal, comparative-legal, systematic, logical methods of scientific knowledge. WIPO data on the Paris Convention and the TRIPS Agreement were studied in determining international standards. As a comparative-legal method, the protection of brand names in the legislation of Uzbekistan, Germany and Great Britain was compared. The methodological basis of the study was general logical methods (analysis and synthesis, dialectics, generalization, analogy, transition from abstract to concrete and from concrete to abstract), empirical research methods (comparison, grouping) and special scientific methods (formal-legal, comparative-legal) and other methods of scientific knowledge.

Results and discussion

In world practice, any words can be used in a company name, except for names prohibited by law. In addition, the company name of a legal entity must also reflect the organizational and legal form of the company through words or certain abbreviations. For example, “Angels LLC”, where the expanded form of LLC can be understood as a limited liability company. In Greece, France and other continental European countries, it is mandatory for individual entrepreneurs to indicate their name in the company name.

In some countries, the right to a company name arises after the company is registered in the local registry of the country in which it is established, while in others, the fact of using a company name that reflects the name of the owner of the enterprise serves as a sufficient basis for the emergence of this right.

Article 8 of the Paris Convention, which serves to facilitate and simplify the right to trade names, states that a trade name shall be protected in the member states of the Paris Convention without the need for an application or registration.[1] This provision establishes that a trade name shall be protected without the obligation to register it separately. WIPO's intellectual property resources also note that in many countries, trade name protection is provided for under civil and competition law, in addition to trade name laws. A trade name or business name may also be protected by registration as a trademark. Typically, both the full corporate name and the abbreviated business name may be registered.[2] In some countries, a mandatory condition for registering a company name may be established, and each country should establish rules on the conditions for protecting the right to a company name and the procedure for doing so.

Article 8 of the Paris Convention does not define a specific model for the protection of a trade name. Therefore, the creation, use and combination of the right to a trade name with a trademark are regulated differently in different countries.A. Casado Navarro, analyzing Article 8 of the Paris Convention, emphasizes that this norm has caused many problems of interpretation in practice. In particular, the author examines the relationship between international trademark protection and national legal systems from the perspective of comparative law.[3] WIPO considers the norms of the Paris Convention to be an important element of the international protection system in protecting trade names from unlawful

use.[4] In our opinion, the right to a company name means the right of the owner of the right to use the company name without any restrictions in a particular country or one of its regions, and even abroad.

The primary function of a company name is to individualize the entity carrying out entrepreneurial activity, not the product. In this respect, a company name differs from a trademark. A successful company name can subsequently reflect the image of a product or service in the minds of consumers. According to BA Alserhan's research, the process of choosing a company name by entrepreneurs in the United Arab Emirates affects the entrepreneur's subsequent activities and reputation. In his opinion, the distinctiveness of a company name, its ability to distinguish it from others, justifies the fact that it is an integral part of the entrepreneurial strategy.[5] It follows that a brand name is an intangible asset that will have economic value over a period of time.

In the legislation of Uzbekistan, a trademark, along with a company name, is considered an independent legal entity. According to Article 1098 of the Civil Code The right to a company name arises from the moment of state registration of a legal entity.[6] The right to a trademark arises upon its registration. It is important to note that the presence of a legal entity's company name in the state register does not mean that this name is legally protected as a trademark for all goods and services. Therefore, it is advisable for business entities to check the availability of trademarks with this name when choosing a company name.

In practice, conflicts between company names arise not through absolute similarity, but through phonetic, graphic or semantic similarity. In our opinion, the transition from the criterion of "identical name" to the criterion of "similar name with a likelihood of confusion" brings the legal protection of company names closer to modern international standards.

It would be appropriate to propose that the terms "degree of confusion", "identical names" and "similar names" be defined in our national legislation as follows:

Same names – letters, numbers, symbols (special characters) in company names and their sequence and spelling (regardless of transliteration and translation) must fully correspond to each other. In this case, punctuation marks, the use of uppercase or lowercase letters, as well as the distance (space) between words, synonymous equivalents of special characters and the presence of suffixes indicating the legal form are not considered distinguishing features of names.

Similar names – the phonetic (pronunciation), visual (appearance) and semantic (meaning) similarity of letters, words, numbers, symbols in the company name and their sequence and spelling (regardless of transliteration and translation) with the name or trademark (service mark) of another legal entity.

Level of deception – the likelihood of a company name being similar or identical in phonetic (pronunciation), visual (appearance) and semantic (meaning) terms to another company name or trademark (service mark) that would lead to the perception of these legal entities or their activities as being related.

It is proposed to introduce this norm into the legislation in order to ensure legal certainty when registering a company name, eliminate "visual fraud" (for example, mixing similar letters of the Latin and Cyrillic alphabets) and

artificial differences (adding a space or writing with a capital letter) that mislead consumers. For example: by definition, “FIVE & FIVE” and “FIVE AND FIVE”, “2x2” and “Double Two”, “TOP-10” and “TOP TEN” are considered the same names. International practice and the experience of foreign countries (for example, the “Substantially Identical” rule of the USA and the European Union) show that relying solely on technical features (punctuation marks, case or transliteration) to distinguish names leads to unfair competition and devaluation of brands in the market; Therefore, this provision allows registering authorities to assess the exact identity of names not technically, but in terms of content, and guarantees the transparency of the register of legal entities.

According to the results of studying the experience of international organizations and foreign countries, the similarity of names is studied based on three main criteria (phonetic (pronunciation), visual (appearance) and semantic (meaning) similarity), and letters, words, numbers, symbols and their sequence and spelling are analyzed. Based on this, the similarity of names is determined.

In the article “The Contradiction Between Domestic and International Law Regarding Trade Names”, published in the journal GRUR International in 2023, the authors emphasize that the obligation under the Paris Convention should be taken into account in the collation between national rights and obligations. They also indicate that when assessing similarity with trade names, the signs do not have to be absolutely identical, and the possibility of consumer confusion should also be taken into account.[7]

The mechanism for resolving disputes over company names in the UK is one of the foreign experiences for Uzbekistan. P. Johnson's 2008 study analyzes the formation of the institution of objection to a company name based on the Companies Act 2006. According to the scientist, the mechanism allowed for a legal objection to the registration of a similar company name by another person in cases where there was goodwill in relation to the name.[8]

The Business Names Act of 1985 is a law that consolidates certain pieces of legislation in the UK relating to the names under which individuals may carry on business. 1stformations for protecting a business name in the UK[9] You can set up a limited liability company through 1st Formations using the company name reservation package on the company name website. By reserving a company name, the company name of your choice is registered with Companies House and the documents are filed on behalf of the business. Confidentiality is protected by providing a company address in central London.

The advantage of reserving a company name is that it allows a company to reserve the chosen company name so that no one else can register it with Companies House.

One of the most important aspects of setting up a limited liability company in England is to register the company name so that it cannot be used by a competitor. The only way to register a company name is to form a limited liability company. In other words, the process of registering a company name is the same as registering a limited liability company at Companies House. The first step in setting up a limited liability company is to choose a company name. There are certain rules that must be followed in order to set up a company successfully.

Every company name must be original. Two variations of a company name cannot be registered. The register of existing companies can be searched to see if a particular company name is already taken. In addition, the proposed name cannot be too similar to an existing company name, especially in cases where another company is a competitor. Attempting to register a company name that is too similar to an existing company name may result in the rejection of the application for company registration.

The German experience was also studied in the issue of protecting company names. The German Trade Mark Act-MarkenG includes "commercial designation" as a separate category.[10] According to Section 5 of the Act, company signs and names of works are protected as trademarks. Company signs include signs used in commerce as the name of a business.

According to Section 37 of the German Commercial Code, a person whose right to a company name is directly violated may demand that the use of the company name be stopped. This also includes the right to claim compensation for the damages caused.[11] In Germany, the company name is viewed not only as a technical requirement in the state register, but also as a means of commercial individualization in entrepreneurial activity. The essence of this approach is that the legal protection of a company name is not limited to its presence in the register, but also in its status in real economic circulation.

Nowadays, the company name is used not only in documents, but also on websites, domain names, and e-commerce platforms. As a result, new forms of illegal use of the company name are emerging. For example, a domain name similar to a well-known company name is being registered in advance and then offered to the right holder at a high price.

While the Paris Convention provides for the international protection of brand names, disputes related to the Internet and domain names require national legislation and special mechanisms.

Therefore, a mechanism of norms regulating the combination of the right to a company name with domain names should be developed in Uzbekistan.

Conclusion and suggestions

First, an integrated electronic search system should be introduced during the state registration of company names, which would identify not only the similarity with company names, but also conflicts with trademarks, well-known company names, names of international organizations, and related domain names. The "name generation" mechanism serves as a preventive mechanism aimed at preventing conflicts.

Secondly, we believe that the formation of a single name for such means of individualization as a company name, trademark and domain name will be one of the acceptable ways to protect exclusive rights to a company name. Also, the authorized body registering company names should strengthen the practice of not registering a company name if a trademark similar to the company name has been previously registered. Although this rule is stipulated in the legislation, in practice there are cases of circumvention of the law. We believe that this increases the likelihood of disputes between business entities, given the increasing number of entrepreneurs today.

Thirdly, in our national legislation, namely the Law "On Company Names"[12], the concepts of "degree of confusion", "identical

names" and "similar names" should be clearly defined and the criteria for their assessment should be established. In this regard, factors such as phonetic similarity, graphic similarity, semantic similarity, type of activity, and popularity of the company name should be taken into account.

In conclusion, a company name is a means of individualization of a legal entity. In international law, the Paris Convention is the fundamental basis for the protection of company names without the obligation to register them. The TRIPS Agreement further strengthens this international standard. The fact that the right to a company name arises in Uzbekistan from the moment of state registration of a legal entity constitutes legal certainty. However, in the conditions of the digital economy, it is necessary to develop a special mechanism to prevent conflicts between company names, trademarks, domain names, and to identify the possibility of confusion. The experience of Germany with a wider protection of company names as a commercial sign and the Company Names Tribunal Institute of the United Kingdom will be a source for improving the national legislation of Uzbekistan. These recommendations will help to form a system of preventive legal protection of rights to company names.

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

ORGANIZATIONAL AND LEGAL MECHANISMS FOR COMPENSATION OF CONSTRUCTION CONTRACT DAMAGES

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Abstract. *This article examines organizational and legal mechanisms for securing compensation for damages under construction contracts in Uzbek civil law. The relevance of the study is determined by the complex and long-term nature of construction obligations, where breach of contract may affect not only payment relations but also the safety, usability and economic value of the constructed object. The research applies doctrinal legal analysis, comparative legal method and functional analysis of contractual risk allocation. The article argues that compensation for damages in construction contracts should not be treated only as a judicial monetary remedy after breach. It should be supported throughout the whole life cycle of the contract by clear technical documentation, balanced duties of the client and contractor, technical supervision, acceptance procedures, warranty retention, insurance, subcontractor control and documented notice mechanisms. The article concludes that a separate contractual block on damage-security mechanisms and a project risk passport could improve contractual discipline and reduce disputes in construction practice.*

Keywords: *construction contract; damages; compensation; contractor; client; technical documentation; warranty retention; risk allocation*

Introduction

Construction contracts occupy a specific place in the system of civil law obligations because they connect private contractual interests with technical, financial and public-safety dimensions. A failure to perform construction work properly may create a simple payment dispute, but it may also affect the safety of a building, the functionality of infrastructure, the use of budgetary or private investment and the ability of the client to obtain the expected economic result. For this reason, the legal regime of damages in construction contracts should be examined not only through the classical formula of civil liability, but also through the organizational arrangements that make compensation practically enforceable.

The Civil Code of the Republic of Uzbekistan, approved by the Laws No. 163-I of 21 December 1995 and No. 256-I of 29 August 1996, defines the construction contract as an agreement under which the contractor undertakes, within the period fixed by the contract, to construct a specific object or perform other construction work, while the client undertakes to create the conditions necessary for performance, accept the result and pay the agreed price. This definition already demonstrates that the parties' duties are interdependent. The contractor's duty to perform cannot be assessed separately from the client's duties to provide access, documentation, financing, technical cooperation and acceptance.

In construction practice, however, damages are often discussed mainly at the stage of litigation: a party claims loss, proves breach, causation and amount, and asks the court to award compensation. Such an approach is incomplete. In complex

construction projects, the ability to compensate damages depends on whether the parties created a documentary, financial and technical basis for responsibility before the breach occurred. If the contract does not clearly define the scope of work, project documentation, interim acceptance, hidden works, warranty obligations and notification rules, the injured party may face substantial evidentiary difficulties even where damage is real.

Modern construction law and construction management literature also confirm that disputes usually arise from contract ambiguity, design errors, changes, poor communication, delay, payment issues and quality defects. Empirical research on binding dispute resolution mechanisms in the construction industry shows that unforeseen changes, lack of communication, ambiguities in contract documents, design errors and work progress delays are among the causes most commonly associated with disputes reaching binding resolution mechanisms [1]. Another study on claims leading to construction delays indicates that contract-related problems and inappropriate actions of the owner may be decisive causes of delay claims [2]. These findings are highly relevant for Uzbek private law because they demonstrate that damages compensation must be supported by a preventive contractual architecture.

The purpose of this article is to identify organizational and legal mechanisms that can secure compensation for damages under construction contracts. The central argument is that damages compensation should be understood as a life-cycle mechanism: it begins at the stage of contract drafting and continues through technical documentation, site handover, financing, execution, supervision, interim acceptance, final acceptance, warranty period and post-completion defect management.

Materials and Methods

The research is based on a doctrinal analysis of Uzbek civil law rules on construction contracts and civil liability, a comparative analysis of selected foreign and international approaches to construction contract risk allocation, and a functional analysis of mechanisms that make damages compensation effective in practice. The doctrinal method is used to determine the legal nature of the parties' duties and the place of damages among civil-law remedies. The comparative method is used to evaluate the relevance of FIDIC contract practice, the Society of Construction Law Delay and Disruption Protocol, and recent English-language construction management studies for Uzbek contractual practice. The functional method is used to assess whether a particular mechanism prevents damage, facilitates proof of damage, allocates risk, or secures actual recovery.

The empirical basis of the study consists of typical construction-contract clauses used in practice, especially clauses concerning technical documentation, work schedules, financing, technical supervision, acceptance, hidden works, warranty periods, defect removal, retention sums, insurance and subcontractor notification. The article does not rely on invented statistics. Where empirical claims are made, they are derived from published studies and official or professional sources. Normative references to Uzbek legislation are made in the text in accordance with the journal requirement that official legal documents should not be placed in the final reference list.

The literature review covers recent English-language studies and professional standards. Vilkonis, Antucheviciene and Kutut emphasize that construction contract quality is

important for both contractor and client, and that contract and risk management need further development [3]. The Society of Construction Law Protocol explains delay and disruption issues as matters requiring structured analysis of time and compensation [4]. FIDIC's 2017 Red Book remains a leading model for works designed by the employer and is widely used as a professional benchmark for balanced construction contract administration [5]. These sources are used not as binding rules for Uzbekistan, but as comparative reference points for designing more predictable contractual mechanisms.

Results

The study identifies eight organizational and legal mechanisms that are particularly important for securing damages compensation in construction contracts. The first mechanism is precise definition of the contract subject, the scope of work and the hierarchy of technical documents. A construction contract is not exhausted by the promise to build. It normally depends on project documentation, estimates, working drawings, specifications, technical standards, permits and performance schedules. If these documents are incomplete or contradictory, it becomes difficult to determine whether the contractor departed from the agreed requirements or whether the client changed the project during performance.

The second mechanism is the correct reflection of interdependent obligations of the client and contractor. The contractor must perform and deliver the result, but the client must create the necessary conditions for performance. Article 677 of the Civil Code of the Republic of Uzbekistan imposes a cooperation duty on the parties by requiring reasonable measures to remove obstacles to proper performance. Therefore, damages caused by delay or defective performance cannot be allocated mechanically to the contractor without examining whether the client provided the site, documentation, financing and approvals in due time.

The third mechanism is permanent technical supervision and documentation of the construction process. Damage in construction is often not produced at the final stage; it develops during performance through the use of improper materials, non-observance of technical rules, deviations from drawings, delay in supply, or undocumented changes. A technical supervisor or technical auditor performs not only a control function but also a documentary function. Records of inspections, test results, site meetings, material certificates and construction diaries may later become decisive evidence for establishing breach, causation and the amount of loss.

The fourth mechanism is strict regulation of hidden works and interim acceptance of critical structures. Hidden works are legally significant because their quality cannot be fully verified after subsequent works cover them. The contractor's duty to notify the client and the competent inspection body before such works are covered, and the duty to open and restore them at the contractor's expense if they were performed without proper confirmation, reduce the risk of latent defects. This mechanism has a preventive and evidentiary nature: it prevents major defects and creates proof if defects arise.

The fifth mechanism is a clear warranty and defect-removal regime. Construction works may reveal defects after acceptance, and therefore the contractor's responsibility cannot end at the moment of signing the acceptance act. Warranty clauses should define the period, the procedure for recording defects, the

deadline for removal, the consequences of refusal to sign a defect act and the client's right to use the retention amount. Warranty retention should not be treated only as a payment delay; it is a legal security instrument that makes the contractor's post-acceptance obligations economically enforceable.

The sixth mechanism is insurance and contractual allocation of construction risks. Before acceptance, the object, materials, equipment and temporary structures may be exposed to accidental loss or damage. Risk allocation clauses determine which party bears this risk and whether insurance is required. International contract practice gives special attention to insurance, indemnity and risk allocation because compensation is ineffective if the party liable for damage lacks sufficient resources. Insurance transforms the abstract duty to compensate into a more reliable recovery mechanism.

The seventh mechanism is control over subcontractors. Large construction projects usually involve several subcontractors. Nevertheless, the general contractor remains responsible before the client for proper performance unless the law or contract provides otherwise. Comparative studies of foreign practice also emphasize that contractors may be liable for the actions of assistants and subcontractors, while some systems restrict complete transfer of all works to subcontractors without appropriate consent. Uzbek construction contracts should therefore require notification of subcontractors, disclosure of the subject of subcontracted works, and direct responsibility of the general contractor for subcontractor-caused defects or delay.

The eighth mechanism is a documented notice procedure for additional works, changes and obstacles. Additional works often arise because of design errors, unforeseen technical conditions or client-initiated changes. If the contractor performs additional works without timely notice, later recovery of costs may become difficult. Conversely, if the client does not respond to a justified notice, performance may be delayed and damages may be attributed differently. Notice clauses should therefore specify the form of notice, the period for response, the consequences of silence, the procedure for suspension and the rules for approving additional estimates.

Table. Functional model of damage-security mechanisms in construction contracts

Mechanism	Risk addressed	Legal function
Technical documentation and work scope	Ambiguity of the subject, design deviations, unapproved changes	Defines breach and evidentiary basis
Technical supervision and construction diary	Unrecorded defects, poor quality, hidden delay causes	Prevents damage and preserves proof
Hidden works and interim acceptance	Latent defects, impossibility of later inspection	Creates preventive control and proof
Warranty period and retention amount	Post-acceptance defects and refusal to repair	Secures real performance and compensation
Insurance and risk passport	Accidental damage, insolvency, unclear allocation of risk	Transforms risk into recoverable financial protection
Subcontractor control	Defects or delay caused by third-party performers	Maintains responsibility of the general contractor

Discussion

The identified mechanisms show that damages compensation in construction contracts has two dimensions. The first is the classical civil-law dimension: a party that breaches an obligation must compensate the losses caused by that breach, subject to the elements of liability. The second is the organizational dimension: the contract must create the conditions under which breach, damage, causation and the amount of compensation can be identified and proved. Without the second dimension, the first dimension often remains declarative.

This conclusion is consistent with modern construction-dispute research. Recent studies show that claims and disputes are strongly connected with delay, cost, quality risks, contract incompleteness and insufficient communication [6; 7]. A review of delays and conflicts in construction projects also indicates that delay and conflict causes are interrelated and require management strategies rather than only post-factum adjudication [8]. Thus, legal regulation should not wait for a dispute to mature. It should encourage contractual mechanisms that prevent loss, clarify responsibility and preserve evidence.

The same approach is reflected in professional contract instruments. FIDIC contracts give a central role to notices, determinations, claims, variations, quality control and taking-over procedures [5]. The Society of Construction Law Delay and Disruption Protocol provides guidance for extension of time and compensation analysis in delay and disruption situations [4]. These instruments are not binding Uzbek law, but they illustrate a functional principle that may be useful for national practice: compensation is more predictable when the contract links risk events to notice, records, time analysis and valuation procedures.

A particularly important issue for Uzbek law is the relationship between acceptance acts and damages. In practice, the act of acceptance may be treated as evidence that the contractor has completed the works. At the same time, signing an acceptance act should not automatically exclude claims for hidden defects, non-compliance with mandatory construction norms or defects discovered during the warranty period. The legal value of acceptance acts should therefore be differentiated: they confirm delivery and visible acceptance, but they do not remove liability for latent or warranty defects where the legal and contractual conditions for such liability are present.

Another issue concerns liquidated damages and penalties. Monetary penalties are common and useful, especially for delay. However, an excessive reliance on penalties may narrow the legal analysis. Penalties do not replace the need to document actual losses, allocate risks, insure the object, secure warranty obligations and manage subcontractors. Comparative scholarship on monetary remedies in construction contracts notes that compensation, penalties and liquidated damages may coexist as different contractual tools [9]. Therefore, Uzbek construction contracts should combine penalty clauses with mechanisms that ensure actual recovery and proper performance.

The proposed model also requires attention to proportionality and balance. Construction contracts are based on cooperation, and both parties may contribute to delay or damage. If the client delays financing, fails to provide documents, refuses acceptance without grounds or changes the technical documentation, the contractor's

responsibility should be assessed in light of these circumstances. Conversely, if the contractor ignores technical requirements, performs hidden works without approval, fails to notify obstacles or improperly delegates work to subcontractors, the contractor should not be able to avoid liability by referring to the complexity of construction.

From a legislative and contractual-policy perspective, the most practical solution is not to create a completely new liability regime for construction contracts. A more efficient approach is to improve standard contractual documentation. Standard construction contract forms may include a separate section entitled "Mechanisms for Securing Compensation for Damages". This section should regulate warranty retention, insurance, technical supervision, construction diary, hidden works, defect registry, subcontractor responsibility, additional works notice, risk passport and the evidentiary status of project documents.

A project risk passport may be especially useful for large construction projects. It would identify key risks before performance begins: delay risk, financing risk, design risk, site access risk, material quality risk, hidden works risk, subcontractor risk, accident risk and warranty risk. For each risk, the passport should indicate the responsible party, required documents, insurance or retention mechanism, notice procedure and dispute-prevention step. Such a document would not replace the contract, but it would make contractual risk allocation clearer and more operational.

Electronic documentation can further strengthen this model. Defects discovered during the warranty period may be recorded in an electronic defect registry, with indication of the date, responsible person, deadline for repair, estimated cost and status of execution. This would reduce disputes over whether a defect was notified, whether the contractor received the claim and whether the deadline for repair expired. In public and large private projects, such digital documentation may also support transparency and reduce corruption risks in acceptance and payment procedures.

Conclusion

The construction contract is a complex civil-law obligation in which damages compensation should not be reduced to a claim filed after breach. The effectiveness of compensation depends on the quality of contractual organization before and during performance. In Uzbek civil law, the general principles of civil liability and the special rules on construction contracts should be implemented through a system of preventive, evidentiary and financial mechanisms.

The research shows that the most important mechanisms are: precise definition of the contract subject and technical documentation; balanced duties of the client and contractor; technical supervision and construction diary; interim acceptance of hidden works; warranty period and retention amount; insurance and risk allocation; control over subcontractors; and formal notice procedures for additional works and obstacles. Each of these mechanisms performs a specific legal function: preventing damage, identifying breach, preserving evidence, allocating risk or securing actual recovery.

For improvement of construction-contract practice in Uzbekistan, it is proposed to introduce a separate section on damage-security mechanisms in standard construction contracts; develop a project risk passport for large construction projects; create an electronic warranty-defect registry; specify the evidentiary value of technical documentation

and construction diaries; and strengthen clauses on subcontractor responsibility and insurance. These measures would improve contractual discipline, reduce disputes and ensure a more effective balance between the interests of clients and contractors.

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

JURISDICTION AND VENUE OF CIVIL CASES ARISING FROM INHERITANCE RELATIONS: A NATIONAL AND FOREIGN ANALYSIS

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Abstract. *This article examines the theoretical and legal foundations of jurisdiction and venue for cases arising from inheritance-related legal matters, as well as the criteria for their determination. It analyzes the legal mechanism for distributing inheritance cases between courts and notarial bodies, the procedural nature of disputed and undisputed inheritance cases, the specific features of cases related to establishing legal facts, and issues of territorial venue. Drawing on a comparative legal analysis of the experience of foreign countries, the author substantiates a proposal to form a corps of judges specializing in the consideration of inheritance disputes to improve Uzbekistan's judicial practice.*

Keywords: *inheritance legal relations, inheritance disputes, subject-matter jurisdiction, venue, notariate, legal facts, special proceedings, judicial specialization.*

Introduction. Disputes arising from inheritance-related legal matters are considered a complex category of cases in civil court proceedings. The proper adjudication of such cases depends, first and foremost, on the correct determination of their subject-matter jurisdiction and venue. This issue is particularly significant for delineating the powers of judicial and notarial bodies, ensuring the timely protection of citizens' inheritance rights, and preventing unnecessary procedural costs.

In recent years, the growing complexity of inheritance relations, the inclusion of new types of assets in estates, and an increase in disputes among heirs have necessitated a thorough theoretical and practical study of this legal institution. Concurrently, the current legislation contains various approaches to certain issues regarding the delimitation of powers between courts and notary offices, which leads to inconsistent decisions in judicial practice.

These issues have been studied by national scholars such as M. Mamasiddikov, D.Y. Khabibullayev, Z.N. Esanova, and I.M. Salimova, as well as by foreign scholars including K.V. Grinberg, P.S. Nikityuk, T.V. Salomatova, and other researchers. However, their scholarly works have not comprehensively covered the criteria for determining the jurisdiction of inheritance cases or the issues of delineating the powers of judicial and notarial bodies. The purpose of this article is to analyze the theoretical and practical foundations for determining the subject-matter jurisdiction and venue of civil cases arising from inheritance-related legal matters, to conduct a comparative study of foreign experience, and to develop scholarly proposals for improving the current legislation.

Materials and Methods. This study analyzed the Civil Code, the Code of Civil Procedure of the Republic of Uzbekistan, the Law "On Notaries," resolutions of the Plenum

of the Supreme Court, and other normative-legal acts governing inheritance relations. Additionally, the legislation and academic literature on inheritance relations from the Russian Federation, Germany, England, Japan, and other countries were examined from a comparative-legal perspective.

The research employed formal-legal, comparative-legal, systematic analysis, logical analysis, historical-legal, and generalization of academic sources methods, as well as the analysis of judicial practice. These methods enabled a scholarly assessment of the criteria for determining the relevance and jurisdiction of inheritance cases and facilitated the development of the author's proposals.

Obtained Results. The jurisdiction of civil cases is a procedural institution that determines which government body, official, or non-governmental entity (such as arbitration, arbitration courts, or a mediator) is authorized to resolve matters pertaining to civil law relations. In legal literature, various approaches exist regarding the classification and legal nature of the types of jurisdiction. Specifically, in the academic works of national procedural scholars M. Mamasiddikov, Z. Esanova, D. Khabibullayev, I. Salimova, and other authors, jurisdiction is interpreted as "the delimitation of authority for the consideration and resolution of disputes by courts and other bodies." These definitions express the narrow sense of jurisdiction and serve to further facilitate its practical application [1, pp 32; 2, pp 15-17; 3, pp 56-68; 4, pp 29-30; 5, pp 49].

Jurisdiction is a broader concept than justiciability. In jurisdiction, not only the court but also all state authorities and administrative bodies, enterprises, institutions, organizations, non-governmental non-profit organizations, and citizens' self-governing bodies participate in resolving disputes according to their competence. Justiciability, on the other hand, determines that disputes belong to the judicial bodies and that a court should be petitioned based on the type of dispute, the composition of the subjects, the residential address of individuals and the location of legal entities participating as parties, and the location of the subject of the dispute among the tiers of the court system. [6, p 323].

Chapter 5 of the Civil Procedure Code of the Republic of Uzbekistan is titled "Jurisdiction and Venue," and these two concepts represent two separate, independent procedural institutions.

Jurisdiction defines the judicial and non-judicial forms of resolving matters concerning the protection of the rights and interests of individuals and legal entities. This is because there are currently a number of state bodies and organizations authorized to protect the violated or disputed subjective rights of individuals and legal entities, as well as their interests protected by law. The jurisdiction of cases plays a key role in delineating their respective powers.

The question of court jurisdiction over inheritance matters arises primarily from the need to clearly delineate the powers between notarial and judicial bodies. This is because inheritance-related legal relationships typically manifest as the subject of notarial proceedings at a stage where no dispute exists.

In accordance with Article 23 of the Law of the Republic of Uzbekistan "On Notaries," notaries perform the following actions related to the regulation of inheritance legal relations:

- approves wills;
- issues certificates of inheritance rights;
- takes measures to protect inherited property;

- acts as a mediator.

Legal literature lists the main and additional criteria for determining jurisdiction. In particular, if the main criteria for determining jurisdiction are recognized as the nature of the case, the type of legal relationship, the sphere in which the dispute arose and the subjective composition of the parties, the presence of a contract and agreement between the parties, the disputability or non-disputability of the right are evaluated as additional criteria [2, pp 54].

In scientific literature concerning the criteria for determining jurisdiction, there is no single approach; national procedural scholars have put forward various theoretical views on this matter.

Specifically, according to the opinion of Z.N. Esanova, the jurisdiction of cases is determined based on the criterion of whether a dispute exists between the parties. If the jurisdiction of a case is determined by the absence of a dispute, this is referred to as the general criteria for jurisdiction, and such claims are often resolved by bodies authorized to settle the matter pre-judicially (Civil Registry Offices, mahalla committees, notaries, khokimiyats, and other bodies).

If jurisdiction is determined by the existence of a dispute between the parties, this is called a special criterion of jurisdiction, and such claims are resolved through the court[7, pp 66].

D.Y. Khabibullayev asserts that the subject of the dispute serves as the main criterion for determining jurisdiction. In his opinion, it is precisely the subject of the dispute that determines whether a case belongs to a court or another body[8, pp 78]. However, a critical perspective on this approach was put forth by I.M. Salimova. Taking into account the difference between disputed and undisputed claims, she argues that the concept of the "subject of the dispute" is insufficient for determining jurisdiction, and that it is more appropriate to define it through "the substance of the claim being made[2, pp 55]. I.M. Salimova's position should be supported. This is because the criterion "content of the claim" is of particular importance in the consideration of disputes. In particular, depending on the merits of the claim, it is determined whether the case will be considered in court or notarized, as well as whether it will be resolved through claims or separate proceedings. This is a decisive factor in the correct definition of affiliation.

Although the scientific sources of the aforementioned scholars cover the general concept and criteria of jurisdiction, the scientific views on the jurisdiction of inheritance cases deserve special attention. In particular, some foreign scientists put forward unique approaches to determining the relevance of works in this category.

In particular, G.V. Greenberg, describing the jurisdiction of inheritance cases, evaluates them as a specific, special type of case and notes that the resolution of inheritance issues, as a rule, falls within the competence of notary bodies, and such cases are considered by judicial bodies only in the event of a dispute over the right[9, pp 22]. R.A. Arupov also explains that the judicial protection of inheritance rights is necessitated by the existence of a dispute related to a rights violation. Thus, most scholars recognize the presence or absence of a dispute over a right as the main criterion for determining the jurisdiction of inheritance cases.

A dispute over the right to inheritance is an integral part of the legal relationship that arises

from the opening of an estate. It manifests as a disagreement between parties concerning the exercise of their rights and obligations within this relationship.

The issue of determining the criteria for assigning a particular inheritance case to either a court or a notary for consideration is complex and controversial. According to a prevalent approach in legal scholarship, if a dispute over the right to inheritance arises after an estate has been opened by a notary, the case must then be heard by a court through a lawsuit. This approach relies on the existence of a legal dispute as the primary criterion for determining jurisdiction. In other words, when there is no dispute, inheritance matters are handled through notarial procedures; however, if a dispute arises, they fall under the jurisdiction of the court. As P.S. Nikityuk noted, when there is no dispute among individuals who consider themselves heirs regarding inheritance rights, the inherited property, or the procedure for its division, the legal aspects of the inheritance proceed normally within the framework of notarial proceedings[10, pp 211]. Thus, the powers of judicial and notarial bodies in inheritance-related matters will be demarcated.

However, it is incorrect to determine the jurisdiction of inheritance cases based solely on their contentious nature. In practice, there are also inheritance cases where no dispute over the right exists, but establishing legal facts is necessary for the exercise of those rights. Various scholarly approaches exist in legal literature regarding the legal nature and procedural characteristics of this category of cases. In particular, K.V. Greenberg asserts that a dispute over a right must be distinguished from situations where, although the subjective right has not been violated or contested by anyone, its exercise is impossible without official confirmation from a competent jurisdictional body. This approach is also highly significant in inheritance law[9, pp 125]. Additionally, T.V. Salomatova acknowledges the existence of an independent category of non-contentious inheritance matters. In her opinion, although these matters are non-contentious in nature, their consideration falls within the jurisdiction of the general courts and they should be heard in a separate proceeding[11, pp 70]. These conclusions of the authors are well-founded and correctly reflect the essence of the jurisdiction of inheritance cases. This is because, although there is no dispute over the right in inheritance legal relations, there are often cases where it is necessary to establish legal facts for the exercise of rights. Therefore, it is scientifically and practically justified to recognize such cases as a separate procedural category and to consider them in the order of separate proceedings.

In accordance with Article 295 of the Civil Procedure Code of the Republic of Uzbekistan, cases concerning the establishment of facts such as the acceptance of an inheritance, the place of opening of the inheritance, kinship relations, and a person's dependency on another, fall under the category of inheritance cases considered in special proceedings of the civil process.

Such cases are considered by the courts in accordance with the rules of Chapter 28 of the Civil Procedure Code, "Establishment of the facts having legal relevance" as, stated above, there is no dispute in these matters.

Discussion of results. Based on a generalization of the aforementioned scholarly views, the research findings indicate that cases arising from inheritance legal relations are not solely contentious in nature. They also

constitute a distinct category where, despite the absence of a dispute over a right, the establishment of legal facts is necessary to exercise those rights. Indeed, the existence of a dispute over a right cannot be recognized as the sole and absolute criterion for determining the jurisdiction of inheritance cases. Although this criterion is significant, it does not fully encompass all situations. To determine the jurisdiction of inheritance cases more precisely and comprehensively, it is necessary to apply several interrelated criteria. Such an approach allows for the consideration of the complex nature of inheritance relations and serves to reduce errors that occur in practice. Therefore, when determining the jurisdiction of inheritance cases, in addition to the existence of a dispute over a right, it is advisable to also consider criteria such as the substance of the case, its legal nature, and its procedural rules.

The issue of jurisdiction over civil cases arising from inheritance-related legal matters is also of significant importance. In general, jurisdiction over civil cases refers to the body of civil procedural law norms that determine the distribution of cases among the judicial bodies of a single system, based on the type of case and the geographical location[12, pp 23].

In the theory of civil procedural law, there are various scholarly approaches to the concept of jurisdiction. In particular, V.V. Molchanov and M.K. Treushnikov define jurisdiction as an institution that determines which specific court within the judicial system hears legal cases in the first instance. M.M. Mamasiddiqov, however, characterizes it as a set of civil procedural law norms that govern the distribution of cases among the levels of the judicial system based on their type and territory. Analysis reveals that in all these approaches, the fundamental essence of jurisdiction is concerned with identifying the court competent to hear a case, with the differences primarily manifesting in the theoretical description of this institution.

When determining jurisdiction, the subject matter of the dispute, the composition of the parties, and their place of residence or the location of their property are taken into account. For this reason, the rules of subject-matter and territorial jurisdiction are of great importance in designating the court competent to hear the case.

Subject-matter jurisdiction refers to the distribution of authority among judicial instances based on the type of case (district, city, inter-district, regional, republic); territorial jurisdiction refers to the distribution of cases among district, city, and inter-district courts based on the address of the parties or the location of the subject of the dispute[13, pp 70].

Our civil procedural legislation does not fully encompass all the criteria for determining related jurisdiction. The criteria for related jurisdiction are only observed in adoption cases[19].

Cases arising from inheritance-related legal matters are generally heard based on the rules of territorial jurisdiction over the claims. Legal literature identifies several types of territorial jurisdiction, including general territorial jurisdiction, alternative jurisdiction (at the plaintiff's discretion), exclusive jurisdiction, contractual jurisdiction, and jurisdiction over interconnected claims[2, pp 83].

Territorial jurisdiction is a procedural institute that determines which court in a specific territory will hear a civil case. In cases arising from inheritance-related legal matters, territorial jurisdiction is determined based on the general, exclusive, and special proceeding

rules of the Civil Procedure Code of the Republic of Uzbekistan.

As a general rule, claims arising from inheritance-related legal matters are filed with the court at the defendant's place of residence. In particular, disputes such as recognizing a person as an heir, restoring the term for accepting an inheritance, or declaring a will invalid are heard by the court at the defendant's place of residence, unless otherwise provided by law.

However, if the dispute pertains to rights over immovable property that is part of the inheritance, the rules of exclusive territorial jurisdiction apply. In such cases, the statement of claim is filed with the court where the immovable property is located. Specifically, disputes concerning the recognition of ownership rights to a house, land plot, or other immovable property within the inheritance, the determination of shares, and the division of property are heard by the court where the immovable property is located.

Not all cases arising from inheritance-related legal relationships are contentious in nature. Specifically, cases concerning the establishment of legal facts necessary for the formalization of an inheritance—such as the acceptance of the inheritance, dependency, kinship, or cohabitation—are considered under a special proceeding. The territorial jurisdiction for this category of cases is generally determined by the court at the applicant's place of residence, based on the norms of the Civil Procedure Code pertaining to special proceedings.

Furthermore, although the place where the inheritance is opened holds significant legal importance for accepting the inheritance and for notarial proceedings under the Civil Code, it is not always the determining criterion for territorial jurisdiction. Therefore, when establishing territorial jurisdiction in cases arising from inheritance-related legal relationships, it is essential to first consider the procedural nature of the case (whether it is heard as a lawsuit or under a special proceeding) and the subject of the claim or application.

To gain a deeper understanding of the issues related to determining the jurisdiction of inheritance cases, it is important to analyze how this institution is regulated in the legislation and judicial practices of foreign countries. International experience reveals that there are various approaches to determining jurisdiction in inheritance matters, primarily based on the division of authority between judicial and notarial bodies.

In the Russian Federation, inheritance matters are, as a rule, handled through notarial procedures, and the formalization of inheritance rights falls within the authority of a notary. However, in the event of a dispute over rights among heirs, such cases are considered by courts of general jurisdiction in a lawsuit procedure, in accordance with the norms of Chapter 3 of the Civil Procedure Code of the Russian Federation[14].

In some foreign countries, however, the authority to resolve non-contentious jurisdictional matters in inheritance cases is vested not in notaries, but in judicial bodies. This approach is particularly characteristic of the legal systems in England, Germany, Bulgaria, Brazil, Greece, Egypt, Iran, Norway, and Japan[15, pp 24]. However, even in these states, judicial powers are not distributed uniformly. For instance, in Germany, while courts of general civil jurisdiction—the Amtsgerichte or Landgerichte—hear inheritance disputes based on the value of the

claim, non-contentious matters are resolved by specialized inheritance courts, the Nachlassgerichte[16]. Likewise, in England, inheritance disputes are resolved by the County Courts and, as a higher instance, the Chancery Division of the High Court, while non-contentious inheritance matters are handled by the Family Division of the High Court[17, pp 83]. In Japan, inheritance disputes are handled by Family Courts - Katei Saibansha [18, pp 177].

Conclusion. This experience demonstrates the importance of judicial specialization in the consideration of inheritance cases. Specialization contributes to increasing the knowledge and experience of judges in this category of cases, forming a unified approach in judicial practice, ensuring the prompt and high-quality consideration of cases, and rationally distributing the judicial workload.

Furthermore, in accordance with paragraph 9 of the Resolution of the President of the Republic of Uzbekistan No. PP-401 dated December 21, 2023, starting February 1, 2024, as an experiment, two judges each in the civil courts of Samarkand city, Namangan inter-district, and Mirzo-Ulugbek inter-district courts have been specialized in considering family disputes, and the institution of "Family Judges" has been introduced.

From the author's point of view, it is advisable to gradually apply this experience to disputes arising from inheritance legal relations. In particular, the formation of a corps of judges specializing in the consideration of inheritance disputes in inter-district civil courts will serve to ensure the uniformity of judicial practice, improve the quality of consideration of complex inheritance cases, and strengthen the stability of court decisions. The effective operation of specialized inheritance courts in countries such as Germany also confirms the practical justification of such an approach.

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ISSUES OF USING COURT NOTICES IN ENSURING THE OPENNESS OF CIVIL PROCEEDINGS IN COURTS

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Abstract. *This article examines the theoretical and legal foundations of the principle of openness in civil proceedings, its historical development and its place in contemporary international legal standards. The study analyzes the concept of open justice developed in the Anglo-American legal tradition, the philosophical views of Jeremy Bentham, the significance of the Scott v Scott case, and modern approaches in foreign legal doctrine. Particular attention is paid to European human rights standards, the case law of the European Court of Human Rights, and the impact of digital technologies on judicial transparency. As a result of the research, the main procedural and legal elements of the mechanism for ensuring openness in civil cases are identified.*

Keywords: *court notice, civil procedure, principle of openness, open justice, court hearing, judicial decisions, digital justice, transparency, public oversight, administration of justice, human rights.*

In civil proceedings, the principle of openness of hearings is one of the essential components of the guarantees of justice. However, the practical implementation of this principle directly depends, first of all, on whether the participants in the proceedings are fully, timely and reliably informed about the judicial process. If a person is not duly notified of the time and place of a court hearing, he or she is deprived of the opportunity to defend his or her rights, submit evidence and participate in the adversarial examination of the parties. This, in turn, leads to the loss of practical significance of the principles of openness and adversarial proceedings. Therefore, the sending of court notices should not be assessed merely as a technical-procedural issue, but as a means of implementing constitutional guarantees of justice.

A comparative analysis of the legislative experience of foreign states, international standards and national judicial practice shows that court notices are sent through a combination of traditional methods (paper-based postal delivery, personal service) and modern digital methods (e-mail, SMS notifications, notification through web portals and personal account systems). In this area, the judicial and legal reforms being carried out in the Republic of Uzbekistan, in particular the approval of the Digital Court Concept by the Decree of the President of the Republic of Uzbekistan No. PD-140 of 21 August 2025, require an in-depth scholarly analysis of this issue and the development of proposals for improving national civil procedural legislation on the basis of advanced foreign experience [1].

The theoretical and legal content of the institution of court notices. Chapter 16 of the Civil Procedure Code of the Republic of Uzbekistan (Articles 156-163) is entitled Court Notices and Summonses and establishes the procedural rules for notifying persons participating in a case of the time and place of the court hearing. In particular, Article 156 of the Code defines the concept of court notices and summonses, Article 157 sets out the requirements for the content of a summons,

Articles 158-160 regulate the time limits, delivery and service procedure, Article 161 determines the consequences of refusal to accept a notice, and Article 162 establishes the institution of due notification [2].

As emphasized in legal literature, the essence of the principle of openness in civil proceedings lies in the fact that it allows citizens to become directly acquainted with the activities of judges, to place such activities under public control, and thereby to ensure the correct and timely resolution of civil cases.

According to legal scholar Professor Sh.Sh. Shorakhmetov, the open and public consideration of civil cases creates a significant impression on the participants in the proceedings and other persons present in the courtroom, and ensures the educational role of the judicial process [3].

In turn, D.Yu. Khabibullaev describes the openness of court hearings, on the one hand, as an indicator of the democratic nature of judicial proceedings, and, on the other hand, as a form of public control over compliance with constitutional principles [4].

From this point of view, the use of court notices functions as a gateway to the principle of openness: if a person is not informed about the proceedings, his or her right to participate and, accordingly, the possibility of exercising judicial oversight remain merely declarative. Therefore, the issue of improving the institution of court notices is inseparably connected with enriching the substantive content of the principle of openness.

International standards concerning the use of court notices. In the system of international legal guarantees of the right to justice, the issue of due notification of the parties occupies a central place. Article 10 of the Universal Declaration of Human Rights and Article 14 of the International Covenant on Civil and Political Rights guarantee the right of every person to a fair and public hearing of his or her case [5]. This necessarily presupposes that the party is informed about the proceedings.

The guide developed in the case law of the European Court of Human Rights concerning the right to a fair trial enshrined in Article 6 of the European Convention on Human Rights emphasizes that the right to justice, including on the basis of the adversarial principle, requires that the parties have the opportunity to become acquainted with all documents and evidence in the case and to comment on them. This right can be realized in practice only through due notification of the party. This principle is expressed in Article 6(1) of the Convention as the right of everyone to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law [6].

The Guidelines on electronic court filing (e-filing) and digitalisation of courts, adopted on 9 December 2021 by the European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe, distinguish two components of electronic communication: first, the submission of documents to the court in electronic form by the parties, representatives and other persons; second, the delivery of procedural documents by the court to the parties through electronic channels and the sending of notices [7].

Among the principles developed in the Guidelines are legality, transparency, reliability, data protection and user-centricity. These criteria constitute general directions that states should observe when digitalizing court notices.

The CEPEJ Action Plan on the Digitalisation of Justice, adopted on 8-9

December 2021, also identifies ensuring the transparency of judicial activity and introducing user-friendly and interoperable digital communication tools as priority areas. It is specifically emphasized that digitalization should not replace the central role of the judge in the process, but should support it [8].

Turning to the experience of common law jurisdictions in the use of court notices, for example the United States, Rule 5 of the Federal Rules of Civil Procedure regulates in detail the methods of serving procedural documents on the parties [9].

According to this rule, a document may be served on a registered user through the court's electronic-filing system, or may be sent by another electronic means to which the party has consented in writing. In such a case, service is completed upon filing or sending. However, if the sender learns that the notice did not reach the recipient, this circumstance defeats the presumption of service.

According to amendments to Rule 5 of the Massachusetts Rules of Civil Procedure, service by e-mail has been recognized as a permissible method even without a written agreement of the parties. This practice was introduced by a court order during the COVID-19 pandemic and was later consolidated as a permanent rule. In this context, the granting of an additional three-day period for a response to the party served by e-mail, pursuant to Rule 6(d), has important practical significance. This is aimed at compensating for the technical risks inherent in electronic notice, for example the possibility that a message may fall into a spam folder [10].

The analysis of the experience of civil law jurisdictions shows, for example, that Section 173 of the German Code of Civil Procedure (Zivilprozessordnung, ZPO) regulates the service of electronic documents. For lawyers, notaries and other professional participants belonging to the category of reliable recipients (zuverlässige EmPDänger), electronic service through a secure transmission channel (sicherer Übermittlungsweg) has been introduced as a mandatory procedure. Pursuant to Section 175(4) of the ZPO, the acknowledgement of receipt (EmPfangsbekenntnis) must be sent to the court in written form, by facsimile or as an electronic document under Section 130a [11].

A distinctive feature of German legislation is that it preserves the voluntary element (voluntatives Element) of service, meaning that an electronic acknowledgement has legal effect only when the recipient sends it with the intention of recognizing the document as served. This constitutes an important legal instrument aimed at guaranteeing the validity of service.

Through the ERV-Ausbaugesetz, which entered into force on 1 January 2022, Sections 173-176 of the ZPO were substantially revised, and the procedure for serving electronic documents was established not as an exception but as a general rule. For non-reliable recipients, a system of automatic acknowledgement of receipt (automatische EmPDangsbestätigung) was introduced. However, the three-day fiction (3-Tages-Fiktion) is not applied in this context. This practice serves to ensure a balance between legal certainty of service and the actual awareness of the addressee [12].

With regard to the experience of the civil procedural legislation of the CIS states, Article 113 of the Civil Procedure Code of the Russian Federation provides that persons participating in a case, witnesses, experts, specialists and interpreters may be notified by registered

letter, a court summons with acknowledgement of service, telephone message or telegram, facsimile communication, or other means of communication and delivery that make it possible to record the notice and its service on the addressee [13].

Within the framework of the State Automated System Justice (GAS Pravosudie) operating in the Russian judicial system, electronic notices may be sent through the personal account of the Unified Portal of State Services (EPGU), provided that the party has consented to being notified in this manner.

In the research of Russian legal scholar I.N. Bartosh, it is noted that although SMS notifications were introduced into civil proceedings as the historically first form of electronic notices, they have still not been directly established in the Civil Procedure Code of the Russian Federation. The procedure for this issue is determined by resolutions of the Plenum of the Supreme Court of the Russian Federation and orders of the Judicial Department under the Supreme Court. In order to prevent abuse of procedural rights in judicial practice, the author recommends giving priority to electronic notices through the State Services portal while duplicating them by traditional means [14]. The sources summarized by the author also note that, since 2016, parties exercising separate state or other public powers, such as state authorities and local self-government bodies, have been obliged to independently monitor the status of a case through the official court website, while the possibility of notification by e-mail was introduced in 2017.

In the Republic of Kazakhstan, the information and analytical system Torelik of the judicial authorities includes a mechanism for notifying participants in proceedings by SMS messages and e-mail [15]. Through the electronic service Court Cabinet (Sot kabineti), the parties are able to monitor the progress of the case remotely and submit documents in electronic form.

The experience of China in applying court notices aimed at ensuring the openness of civil proceedings is also noteworthy. In the People's Republic of China, within the framework of the Smart Court (智慧法院) concept, there is a system for automatically sending procedural documents by e-mail or short message (SMS). According to the Online Litigation Rules of the People's Courts, which entered into force on 1 August 2021, the party's clear and informed consent to the use of online methods is required. In addition, the party has the right to withdraw such consent at any time. This serves to ensure personal autonomy in the digital justice system [16].

Turning to the practical situation and statistical indicators concerning the digitalization of court notices in the Republic of Uzbekistan, within the framework of the Program for the introduction of modern information and communication technologies into the activities of courts for 2017-2020, approved by Resolution of the President of the Republic of Uzbekistan No. PD-3250 of 30 August 2017, an electronic database on a centralized management platform has been functioning in economic courts since 1 January 2018 in order to ensure electronic document exchange, judicial statistics and effective use of procedural time limits [17]. Today, through the interactive service portals Sud.uz and My.sud.uz, citizens are able to receive court notices and summonses online, remotely monitor the status and progress of a court case,

and participate in court hearings through a videoconferencing system.

The Digital Court Concept approved by Decree of the President of the Republic of Uzbekistan No. PD-140 of 21 August 2025 is aimed at fundamentally reforming the national judicial system. Among its structural directions, special importance is attached to the complete digitalization of filing applications and document circulation, ensuring the remote participation of trial participants, and automating judicial processes. According to the Concept, special courtrooms are planned to be established on an experimental basis in Tashkent by the end of 2025, and the system is expected to be introduced gradually throughout the republic in 2026-2027 [18].

At the same time, in the field of compulsory enforcement, the practice has been introduced of sending notices on the initiation of enforcement proceedings on the basis of an enforcement document by e-mail or mobile communication in the form of a short message (SMS) through an automated system. Special software is used to record the facts that a notice has been sent and received. However, in practice, the legal significance of sending court notices in electronic form, namely the criteria for recognizing an electronic notice as duly served, is not fully regulated in Articles 156-162 of the Civil Procedure Code. In particular, current legislation does not establish a clear legal presumption of receipt for notices sent by e-mail or SMS, nor does it define the procedure for obtaining the party's consent to this method. This creates risks in practice that the hearing may be delayed because the court notice was not delivered, or, conversely, that a case may be resolved without duly notifying the party.

The analysis of judicial practice concerning the application of court notices shows that, according to statistical data related to the review of judicial acts on newly discovered circumstances by the Plenum of the Supreme Court of the Republic of Uzbekistan, the number of applications for review of judicial acts by administrative courts demonstrates a steady upward trend. In particular, 396 applications were recorded in 2021, 499 in 2022, 526 in 2023 and 573 in 2024. The consistent increase in these indicators may indicate, among other reasons, the growing number of disputes connected with a party not being timely informed about important circumstances of the case, including notice of the court hearing. In this regard, the approach developed in the judicial practice of the Russian Federation on the issue of due notification is noteworthy. According to collections of judicial practice, notification by SMS has been recognized as corresponding to the first part of Article 113 of the Russian Civil Procedure Code. In this case, the party's separate consent to being notified by this method must be obtained by means of a receipt indicating the mobile telephone number, and the fact that the SMS notification was sent and delivered to the addressee must be recorded. In addition, practice emphasizes that SMS notifications are mainly used for repeated notification, and that the notice of the first court hearing may not be sent only by SMS. This reflects an approach requiring a higher level of reliability for the first notification.

According to scholars who have studied Chinese judicial practice, including Bin Liang, Tao Xu and others, in the Smart Court system, one of the important tools for ensuring procedural transparency is the provision of information on case status through online

platforms. At the same time, the authors note the problem that procedural legislation lags behind digital judicial practice, in particular the absence of clear legal grounds for certain aspects of online litigation rules. This conclusion is also relevant for Uzbekistan, because technical solutions being introduced in practice, such as the system for sending notices by SMS, still await the appropriate legal regulation that should be reflected in procedural legislation.

On the basis of the above analysis of foreign experience, international standards and national practice, the following conclusions and proposals may be put forward:

1. It is advisable to introduce into Article 156 of the Civil Procedure Code of the Republic of Uzbekistan a separate definition of electronic court notice and to provide that it has equal legal status with paper-based notices under the Code. In this regard, similar to the category of reliable recipients in Section 173 of the German ZPO, a mandatory channel for receiving electronic notices should be introduced for lawyers, legal entities and state bodies;

2. In accordance with the approach of the United States Federal Rules of Civil Procedure, it is necessary to introduce a legal presumption of receipt under which an electronic notice is deemed served from the moment it is sent, unless the sender learns that it has not reached the recipient, and to establish a rule placing the burden of proving this circumstance on the sender;

3. Taking into account the experience of Russia and Kazakhstan, the first notice of summons to court should be sent only by a traditional method (postal delivery or personal service) or through an electronic channel for which the party has given prior written consent, while the broad use of SMS and e-mail for repeated notices should be regulated procedurally;

4. In line with the Chinese Smart Court experience, it is necessary to obtain the party's clear and informed consent to the use of electronic notices and online participation, as well as to establish the party's right to withdraw such consent at any time and return to traditional methods. This would guarantee the party's voluntary choice between digital and traditional methods;

5. It is proposed to introduce a rule granting the party served by e-mail or SMS an additional period, for example 2-3 working days, to respond or prepare for the court hearing, as in the experience of the State of Massachusetts in the United States. This would compensate for the risk of late delivery of notices caused by technical failures;

6. In accordance with the CEPEJ e-filing Guidelines, including the principles of user-centricity and data protection, it is necessary to develop draft amendments and additions to Chapter 16 of the Civil Procedure Code, taking into account the need to regulate not only the technical, but also the legal and procedural aspects of the electronic notification system being developed within the framework of the Digital Court Concept.

In conclusion, improving the institution of court notices is an important condition for ensuring the principle of openness of civil cases not merely in form, but in substance. The application of advanced foreign experience, taking into account the specific features of the national legal system, as well as the strengthening of procedural guarantees in accordance with international standards, will contribute to the successful implementation of

the Digital Court Concept in the Republic of Uzbekistan and, through this, to further strengthening citizens' trust in the judiciary.

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DIGITAL EVIDENCE IN SUPPLY-CONTRACT DISPUTES BEFORE ECONOMIC COURTS: AUTHENTICATION, INTEGRITY AND EVIDENTIARY RISK IN UZBEKISTAN

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Abstract. *This article examines the legal treatment of digital evidence in disputes arising from supply contracts before the economic courts of the Republic of Uzbekistan. The research focuses on the procedural consequences of Law No. LRU-1003 of 21 November 2024, which introduced Articles 76¹ and 76² into the Economic Procedural Code and expressly regulated electronic data, digital evidence, copying, integrity, identity and the relationship between a digital source and its paper representation. The central problem is no longer whether electronically generated information can be evidence, but how courts should distinguish admissibility, authentication, integrity and probative weight when commercial facts are recorded in enterprise-resource-planning systems, electronic invoices, warehouse logs, transport-tracking data, electronic signatures, platform messages and screenshots. Using doctrinal, systemic, comparative-legal and scenario-based methods, the article analyses the Economic Procedural Code, legislation on electronic commerce, electronic document management, electronic digital signatures and personal data, together with UNCITRAL instruments, transnational procedural models and selected digital-evidence scholarship. It argues that Uzbekistan should avoid both paper-form formalism and technological deference. A digital record should not be rejected merely because it is not a traditional document, but neither should a system-generated record be treated as self-authenticating merely because it comes from business software. The article proposes a five-factor digital-evidence reliability matrix based on source attribution, integrity, temporal consistency, transactional linkage and adversarial verifiability; a controlled allocation of evidentiary risk under Articles 68 and 69; and a pretrial digital-evidence protocol for complex supply disputes. These measures are intended to improve predictability, procedural equality and the quality of judicial reasoning in technology-intensive commercial litigation.*

Keywords: *digital evidence; electronic data; economic court; supply contract; authentication; integrity; burden of proof; electronic commerce; evidentiary risk.*

Introduction

Commercial performance is increasingly recorded before it is ever described in a pleading. A supplier releases a batch through an enterprise-resource-planning system; a warehouse scan records loading; an electronic invoice identifies quantity and price; a transport platform records a route and timestamp; a buyer approves or rejects delivery through a procurement portal; and subsequent discussions take place through e-mail or messaging applications. When a dispute reaches an economic court, these records may be more probative than a later paper act prepared for litigation. The procedural question is therefore not whether technology has entered commercial evidence, but how law should determine which digital records are sufficiently connected to a disputed fact, sufficiently authentic, sufficiently intact and sufficiently open to adversarial verification to justify reliance. [1]

Uzbekistan moved from implicit recognition of electronic information to an express procedural architecture through Law No. LRU-1003 of 21 November 2024. The Law amended several procedural codes and, for economic proceedings, introduced Articles 76¹ and 76² into the Economic Procedural Code. Article 76¹ defines electronic data by reference to creation, processing and storage through electronic devices, information systems and information technologies. Article 76² defines digital evidence as electronic data containing information about circumstances relevant to the case and expressly includes electronic files, audio and video recordings, Internet information and other electronic data. The same provision requires integrity and identity to be preserved when digital evidence is copied and regulates the admissibility of copies and paper printouts. [2]

These rules are particularly important for supply-contract litigation because the substantive relationship itself generates dense streams of structured and semi-structured data. Articles 437-456 of the Civil Code regulate supply, while legislation on the contractual and legal framework of business entities and specialised Plenum guidance address recurring disputes concerning contractual performance, defective goods and failure to take delivery. The material facts usually concern formation and content of the contract, delivery time, quantity, assortment, quality, completeness, acceptance, inspection, notification, payment, damages and excuses for non-performance. Increasingly, each of these facts may be reflected in a different information system controlled by a different participant in the transaction. [3]

The resulting doctrinal problem has four dimensions. First, classification: when should an electronic record be treated as a digital evidence object rather than as a paper document merely because a printout exists? Second, authentication: what foundation sufficiently connects the record to the person, device, account or business system alleged to have generated it? Third, integrity: what is required to show that the information has not been materially altered between creation, extraction, submission and examination? Fourth, evidentiary risk: which party should bear the consequence of uncertainty when the decisive data are under the exclusive or predominant control of the opposing party or a third-party platform? Digital-evidence literature consistently shows that these dimensions should be separated rather than collapsed into a single question of whether a computer record is "reliable." [4]

The purpose of this article is to develop a supply-dispute-specific model for applying the new provisions. Its central hypothesis is that the best interpretation of the Economic Procedural Code is a staged model: relevance and statutory admissibility determine whether the digital material may enter the evidentiary record; a prima facie authentication foundation connects the material to its alleged source; integrity and identity are tested through technical and contextual indicators; and final probative weight is assessed under Article 74 together with the complete evidentiary record. The article further argues that information asymmetry should be addressed through targeted production, adverse consequences for unjustified withholding and pretrial evidence management rather than an unstructured reversal of the ultimate burden of proof.

2. Materials and Methods

The research is doctrinal and applied. The primary national sources are the Economic

Procedural Code, including Articles 66-76² and 163¹; Law No. LRU-1003 of 21 November 2024; the Civil Code provisions governing supply; Law No. 670-I on the contractual and legal framework of business entities; Law No. LRU-792 on electronic commerce; Law No. LRU-793 on electronic digital signatures; Law No. 611-II on electronic document management; Law No. LRU-547 on personal data; and relevant Plenum resolutions concerning contractual disputes. The legislation was examined in the version in force on 7 September 2026. [5]

Four methods were applied. The formal-doctrinal method was used to identify the statutory elements of electronic data, digital evidence, copies, originals, written evidence, burden of proof and judicial evaluation. The systemic method examined the interaction between procedural evidence rules and the legal rules governing electronic contracting, electronic signatures, storage of commercial records and protection of personal data. The comparative method used UNCITRAL instruments, the ALI/UNIDROIT Principles of Transnational Civil Procedure, the ELI/UNIDROIT Model European Rules of Civil Procedure, selected United States authentication rules and technical preservation standards as functional comparators rather than as sources of directly applicable law. The scenario method tested the proposed model against recurrent supply-dispute fact patterns involving electronic invoices, ERP records, GPS data, warehouse logs, messaging-platform correspondence and screenshots. [6]

The comparative approach is deliberately limited. Digital evidence cannot be detached from domestic rules on admissibility and judicial proof. A technical hash, a server log or an electronic signature may be highly informative, but no technical indicator by itself determines the legal effect of a record. Conversely, legal categories such as "original" and "copy" may become difficult to apply to cloud-native or database-generated information if they are interpreted as if every electronic record existed as one unique physical object. The analysis therefore uses functional equivalence: the legal purpose behind a requirement is identified first, and only then is the technological mechanism assessed as a possible way of satisfying that purpose. [7]

Results

3.1. The procedural architecture after Law No. LRU-1003

The 2024 reform establishes an important distinction between electronic data and digital evidence. Electronic data are defined broadly by the technological manner in which they are created, processed and stored. Digital evidence is narrower in functional terms: it is electronic data containing information about circumstances relevant to the case. Thus, an entire server, device or database may contain electronic data, while only a defined subset may have evidentiary relevance to a particular dispute. This distinction is useful because it prevents the concept of digital evidence from becoming coextensive with every piece of information stored on a device. [8]

Article 76¹ also regulates the act of presentation. Parties, witnesses and other participants may present electronic data by copying them from one electronic carrier to another, while the court, with the participation of a specialist, accepts the data and examines the primary electronic carrier. Article 76² then permits copying of digital evidence only if integrity and identity are preserved. These provisions reveal two separate concerns: procedural access to the data and evidentiary

confidence that the submitted representation corresponds to the relevant source. They should not be treated as synonyms. A party may technically succeed in copying a file, yet still fail to explain who created it, whether it belongs to the relevant transaction or whether it was altered after creation.

The Code further provides that admissibility of a copy is ensured by the existence of the original from which the copy was made, except for notarised digital evidence. Parties and other participants may submit digital evidence printed on paper, but the paper representation is not itself written evidence, again subject to the notarisation exception. The distinction is doctrinally significant. It rejects a common evidentiary shortcut: transforming a digital source into a paper document merely by printing a screenshot, e-mail, spreadsheet or platform page. The legal object remains digital, and the paper serves at most as a representation through which its visible content may be reviewed. [9]

This approach is consistent with the broader national framework for electronic commerce. Law No. LRU-792 recognises electronic documents and identifiable electronic messages as capable of evidencing contract formation, recognises specified electronic confirmation methods, and permits commercial processes and performance documents to operate electronically. Law No. LRU-793 gives legal significance to electronic digital signatures, while Law No. 611-II supplies the general framework for electronic document management. These statutes establish substantive legal force; the Economic Procedural Code determines how the resulting information is proved in litigation. The two layers must be read together. [10]

3.2. Admissibility, authentication, integrity and probative weight

A coherent digital-evidence doctrine requires four questions to be asked in sequence. Admissibility asks whether the evidence is of a legally permissible form and whether any statutory condition for its use has been satisfied. Authentication asks whether there is a sufficient foundation to conclude that the record is what its proponent claims it to be. Integrity asks whether the informational content and relevant metadata have remained materially unchanged through creation, storage, extraction and submission. Probative weight asks how strongly the authenticated and admissible record supports the fact for which it is offered. Article 74 supports this separation by requiring individual evidence to be evaluated for relevance, admissibility and reliability and the totality of evidence for sufficiency, while denying predetermined force to any item. [11]

Authentication should therefore be understood as a threshold foundation, not as final proof of truth. An electronic invoice may be authenticated as a record generated by the supplier's invoicing system without proving that the quantity stated in it was actually delivered. A GPS log may be authenticated as data exported from a carrier's tracking system without proving that the tracked vehicle carried the disputed goods. A messaging account may be linked to an employee without proving that every statement made through the account was accurate or authorised. Comparative evidence law similarly treats authentication as a showing that supports identification of the item, leaving persuasive weight for later evaluation. [12]

Integrity is related but distinct. The statutory terms "integrity" and "identity" in

Article 76² should be operationalised through a combination of technical and contextual evidence. Potential technical indicators include hash values for exported files, audit logs, electronic-signature verification, system-generated identifiers, metadata, access-control records, immutable transaction logs and documented extraction procedures. Contextual indicators include consistency with accounting records, bank payments, warehouse movements, subsequent correspondence, physical inspection and the behaviour of the parties. Neither type should be mechanically privileged. A technically perfect copy of a fabricated source remains fabricated; a record lacking a forensic hash may still be reliable if its source, chronology and business context are independently corroborated. [13]

This distinction also clarifies the role of a specialist. Article 76¹ requires specialist participation when the court accepts presented electronic data and examines the primary electronic carrier. Specialist assistance may be essential for accessing a database, verifying an export, explaining metadata or preserving a source. It should not, however, displace the judicial function under Article 74. The specialist can explain the system and technical integrity; the court must still determine relevance, admissibility, reliability and sufficiency in light of the parties' arguments and the whole case.

3.3. The problem of the "original" in distributed and cloud systems

Article 76² conditions admissibility of a copy on the existence of the original from which it was produced. For ordinary files stored on a local device this formulation is relatively straightforward. Commercial systems, however, increasingly store data in replicated databases, cloud environments, enterprise systems and platform infrastructures where there may be no single physical "original" analogous to the signed sheet of paper. The authoritative record may be a database state reconstructed from entries, a server-side event log, an export generated on demand or a record distributed across several storage layers. Digital-evidence scholarship has long cautioned against importing paper-based originality concepts without considering how computer systems create and reproduce information. [14]

The Code should not be read as eliminating the original requirement, but its purpose should be specified. The purpose is to ensure that the copy submitted to the court can be verified against an authoritative source and that the process of reproduction has not changed the evidentiary content. In a cloud-native system, the "original" should therefore be identified by reference to the authoritative source environment, dataset or controlled system state from which the representation was extracted. This is an interpretative proposal, not a claim that the statutory wording already expressly defines cloud originals in this way.

A party relying on a cloud or platform record should accordingly identify the system, account or tenant, relevant record identifier, extraction method, date and time of export, and any verification data available. Where the source is controlled by a third-party platform, the party should explain the obtainable verification route, such as an official export, provider confirmation, electronically signed record, API record or other system-level indicator. Courts should resist the opposite extremes of demanding physical seizure of infrastructure that cannot realistically be brought to court and accepting an unexplained

screenshot as the functional equivalent of the primary source.

3.4. Evidence generated by commercial information systems

ERP, warehouse-management and logistics systems present a recurring evidentiary pattern: the record may be generated automatically in response to a human action, generated entirely by the system, or generated through a combination of automated and manual inputs. These categories matter because they create different authentication questions. A user-entered delivery confirmation requires proof connecting the account to an authorised user and the entry to the transaction. A sensor-generated timestamp requires confidence in the device or system process. A calculated inventory balance may require explanation of the input data and software logic. Machine-generated evidence literature illustrates why attribution to a human declarant is not always the correct analytical model. [15]

For supply disputes, the relevant foundation should normally answer six questions: what system generated the record; what event caused its creation; who or what had authority to create or alter it; whether the timestamp and identifier correspond with other transaction records; whether logs or metadata reveal later modification; and whether the record can be linked to the specific contract, invoice, batch, consignment or delivery. The purpose is not to require expert evidence for every electronic invoice. Routine records may be authenticated through ordinary business evidence. Technical assistance becomes proportionate when authenticity is genuinely disputed, the system is complex or the record is decisive.

Electronic signatures are a particularly strong but not absolute indicator. Under the national electronic-signature regime, a valid electronic digital signature performs identification and integrity functions. In a supply dispute, successful signature verification may establish a powerful connection between a document and a signature key. It does not necessarily prove authority beyond the scope of the key, correctness of the underlying commercial statement, absence of duress or fraud, or actual performance of the obligation. Signature evidence should therefore be treated as part of authentication and integrity analysis, not as predetermined proof of the substantive fact asserted. [16]

3.5. Screenshots, messaging applications and platform correspondence

Screenshots are convenient because they preserve visible content, but their convenience also creates evidentiary weakness. A screenshot may omit the account identifier, metadata, complete conversation context, deleted messages, editing history, time-zone information or the technical source from which the image was captured. It may also be cropped or altered without obvious visual signs. A categorical rule excluding screenshots would nevertheless be excessive. Screenshots may provide useful corroboration, especially when the opposing party admits the communication or when content is confirmed by surrounding evidence. Comparative writing on social-media authentication similarly supports a contextual rather than categorical approach. [17]

Where a screenshot is materially disputed, the court should seek the best reasonably available verification source: device inspection, a platform export, account data, surrounding

messages, electronic-signature information, provider records where lawfully obtainable, or specialist examination. The proponent should not be required to achieve technical perfection that the platform itself makes impossible, but should explain why the submitted representation is a faithful record of the communication. Conversely, a bare allegation of manipulation should not automatically neutralise evidence where the record is strongly corroborated.

The same analysis applies to messages used to prove modification of delivery terms, acceptance, notification of defects or acknowledgement of debt. The legal significance of the communication must be separated from its evidentiary authenticity. First the court determines whether the message is attributable and intact; then it determines whether the content, under substantive contract law and the parties' agreement, was capable of producing the asserted legal consequence.

3.6. Allocation of evidentiary risk and information control

Article 68 retains the general rule that each participant must prove the circumstances relied on as the basis of claims and objections. It also requires disclosure before the hearing or within the time fixed by the court and creates an adverse consequence where a party withholds evidence requested by the court: the information contained in the evidence is presumed adverse to that party and treated as admitted. Article 69 enables participants unable to obtain necessary evidence independently to seek judicial assistance in obtaining it. These provisions are well suited to digital information asymmetry. [18]

The ultimate legal burden should not shift merely because relevant information is digital. A supplier claiming the contract price still bears the burden of establishing the constitutive facts of its claim. A buyer relying on payment, timely rejection or another independent defence bears the burden attached to that defence. What may shift dynamically is the evidential burden to respond to a prima facie showing or the production burden when one party controls the best record. Procedural scholarship distinguishes these burdens because collapsing them can either unfairly penalise the information-poor party or destabilise substantive allocation of proof. [19]

A controlled model has three stages. First, the party bearing the ultimate burden identifies the disputed fact and presents a prima facie evidentiary basis. Second, if a material digital source is predominantly controlled by the opponent or a third person, the party identifies the source with enough specificity for Article 69 production. Third, if the controller fails without justification to produce evidence ordered by the court, Article 68 supplies the procedural consequence. This model is preferable to an abstract statement that "the burden shifts" because it identifies what burden shifts, why it shifts and what legal consequence follows.

3.7. A five-factor digital-evidence reliability matrix

The following five-factor matrix is proposed for digital evidence in supply disputes. First, source attribution: can the record be linked to the relevant person, account, device, information system or business process? Second, integrity: is there a reasonable basis for concluding that relevant content has not been materially altered between creation and examination? Third, temporal consistency: do timestamps,

sequence numbers and surrounding events fit the transaction chronology? Fourth, transactional linkage: can the record be connected to the particular contract, invoice, batch, consignment, payment or notice in dispute? Fifth, adversarial verifiability: has the opposing party received a meaningful opportunity to inspect the source, a reliable copy or sufficient technical information to challenge authenticity and weight? [20]

The matrix is not a statutory list of cumulative admissibility conditions. It is a judicial reasoning tool. Different factors may carry different weight depending on the evidence. An electronically signed invoice may have strong attribution and integrity but weak proof of physical delivery. A warehouse video may have strong transactional linkage but require more work on timestamp integrity. A platform export may be highly verifiable but depend on a third-party provider. The matrix makes the reasons for reliance visible and therefore improves appellate review and party predictability.

Discussion

4.1. Functional equivalence and the limits of paper-form thinking

UNCITRAL's Model Law on Electronic Commerce supplies a useful conceptual comparison because it rejects discrimination against information merely because it is in the form of a data message and directs attention to reliability, integrity and the manner in which information was generated, stored or communicated when evidential weight is assessed. Uzbekistan's current procedural rules are not identical to the Model Law, but the functional insight is compatible with the national reform: the decisive inquiry is whether the electronic form performs the legal and evidentiary function required, not whether it resembles paper. [21]

The national Law on Electronic Commerce reinforces this approach by giving legal significance to electronic documents and identifiable electronic messages and by regulating electronic formation, acceptance and storage. These substantive rules would be weakened if economic courts required parties to convert every relevant record into a conventional paper document before treating it seriously. Article 76² appropriately prevents that conversion from changing the evidentiary category. The paper printout is a representation of a digital source, not a magical transformation of that source into written evidence.

Functional equivalence must, however, remain disciplined. It cannot mean that every electronic output is presumptively authentic. The principle removes discrimination based on form; it does not remove authentication. A forged electronic document, fabricated screenshot or manipulated database export is not made reliable by the fact that electronic commerce is legally recognised. The evidentiary regime must remain capable of testing source, integrity and context.

4.2. Comparative procedural standards and technical preservation

The ELI/UNIDROIT Model European Rules of Civil Procedure define documents broadly enough to include electronic forms and distinguish the burden of proof from the burden to adduce evidence. The ALI/UNIDROIT Principles likewise emphasise fair opportunity to present and respond to evidence in transnational commercial adjudication. These materials support two propositions relevant to Uzbekistan: electronic evidence should be treated as an ordinary

evidentiary category rather than an exceptional technological object, and procedural equality requires meaningful access to the information needed to test the opponent's digital case. [22]

Technical standards such as ISO/IEC 27037 and NIST SP 800-86 are useful for preservation, acquisition and documentation. They can help experts and specialists explain good practice in identifying, collecting, acquiring and preserving digital information. They should not be converted into rigid legal admissibility rules unless national legislation expressly does so. A commercial litigant should not lose a meritorious claim merely because a routine business record was not collected according to a forensic-investigation standard developed for different contexts. Technical standards are most persuasive where authenticity is contested, evidence is volatile or forensic acquisition has actually been undertaken. [23]

Comparative United States practice also illustrates the distinction between authentication and final weight. Federal Rule of Evidence 901 requires a foundation sufficient to support a finding that the item is what the proponent claims; Rules 902(13) and 902(14) create mechanisms for certain certified electronic records and data copied from devices; and the original-writing rules recognise that digital information challenges traditional notions of originality. Lorraine v. Markel remains influential because it demonstrates that electronic evidence must be analysed through ordinary evidentiary requirements rather than admitted merely because it appears technologically familiar. The comparison is instructive, but the governing law in Uzbek economic courts remains the Economic Procedural Code. [24]

4.3. Risks of excessive formalism and excessive technological deference

The first risk is excessive formalism. A court may insist on a traditional paper act despite the existence of a more complete and reliable digital record, or treat a screenshot as unusable solely because source metadata were not initially filed. This approach raises litigation costs and may reward the party that controls the underlying system. The second risk is excessive technological deference: assuming that an ERP entry, electronic signature, platform export or automated timestamp is correct because it was generated by software. Modern scholarship on machine evidence cautions that systems are designed, configured and fed by humans and may contain errors, biased inputs or incomplete logs. [25]

The balanced approach is proportional authentication. The depth of the foundation should correspond to the importance of the evidence and the seriousness of the challenge. Routine electronic invoices admitted by both parties require little technical proof. A decisive disputed ERP export created after litigation began may require metadata, audit logs and specialist explanation. A messaging screenshot corroborated by payment and delivery records may be sufficient without platform-level production. A screenshot standing alone, denied by the alleged sender and lacking account information, requires a stronger foundation.

4.4. Pretrial digital-evidence management

Article 163[1] provides a procedural stage at which the judge may clarify claims, objections and the evidence supporting them. Complex digital-evidence disputes should use this stage to create a concise digital-evidence protocol. The protocol should identify the disputed

digital sources, the party or third person controlling each source, the required form of production, any integrity or authentication issue already raised, whether specialist assistance is needed, and deadlines for inspection or objections. This would not transform the judge into an investigator; it would make the parties' evidentiary responsibilities explicit before the merits hearing. [26]

A protocol is especially valuable where evidence is volatile. Messaging histories may be deleted, cloud logs may be retained only for limited periods, platform accounts may change, and business systems may overwrite audit information. Early identification also permits proportionate preservation: the court need not order production of an entire server when a defined export, log segment or transaction history will resolve the issue. Personal-data protection must be integrated by limiting production to relevant information and using procedural safeguards for unrelated personal data. [27]

4.5. Practical application to recurring supply scenarios

Consider five simplified situations. In the first, the supplier presents an electronically signed invoice and an ERP dispatch record; the buyer admits receipt but denies quantity. Authentication is largely established, but the decisive issue is transactional linkage to quantity, requiring warehouse or acceptance evidence. In the second, the buyer presents a screenshot of a messenger conversation allegedly extending the delivery deadline; the supplier denies authorship. The court should seek account attribution, surrounding messages or a device/platform source rather than treating the screenshot as conclusive or worthless. In the third, a carrier's GPS export is offered to prove arrival at the buyer's warehouse. The record must be linked to the relevant vehicle and consignment, and its timestamp tested against other delivery records.

In the fourth situation, a buyer claims that defective goods were timely reported through an electronic procurement portal controlled by the supplier. The buyer produces a confirmation e-mail but lacks the underlying portal log. If the e-mail and surrounding evidence create a prima facie basis, targeted production under Article 69 should be used; unjustified withholding by the controller may trigger Article 68 consequences. In the fifth, a party produces only a paper printout of an online account statement. Article 76^2 prevents the court from silently reclassifying the printout as written evidence; the party must identify and, where necessary, make available the digital source or a qualifying notarised digital record.

4.6. Legislative and interpretative improvements

First, Supreme Court guidance should expressly distinguish admissibility, authentication, integrity and probative weight for digital evidence. Second, guidance should explain the operation of "original" and "primary electronic carrier" for cloud, platform and database systems, focusing on access to an authoritative source and verifiable reproduction without contradicting Article 76^2. Third, courts should use a proportional authentication approach and avoid imposing forensic-level requirements on uncontested routine commercial records.

Fourth, Article 163^1 practice should incorporate a digital-evidence protocol in complex cases. Fifth, standard judicial reasoning should identify the digital source,

the authentication foundation, integrity indicators, the material fact supported, competing evidence and the reason for the assigned weight. Sixth, procedural training should include ERP logs, electronic invoices, digital signatures, screenshots, messaging exports, GPS records and cloud evidence. Seventh, preservation and production orders should incorporate data minimisation where personal data or unrelated business information are present.

Finally, the relationship between the rules on digital evidence and existing Plenum guidance for supply disputes should be modernised. Resolutions drafted around paper acts remain valuable for defining legally material facts, but evidentiary checklists should expressly recognise equivalent digital records where the Code's requirements are satisfied. The goal is not to abolish documentary discipline; it is to ensure that the form in which a fact is recorded does not obscure the substantive and procedural function of the evidence.

Conclusion and Practical Proposals

The introduction of Articles 76^1 and 76^2 marks a structural change in Uzbek economic procedure. Digital information is no longer accommodated only through general documentary concepts; the Code now defines electronic data and digital evidence, regulates copying, requires integrity and identity, distinguishes a paper printout from written evidence and preserves a connection between a copy and its original source. For supply-contract disputes, this reform is especially significant because modern performance is recorded across multiple commercial information systems.

The study confirms that the principal challenge has shifted from recognition to evaluation. Courts need to distinguish four questions: legal admissibility, source authentication, integrity of the informational object and final probative weight. Authentication is a threshold foundation, not proof of truth. Integrity should be established through converging technical and contextual indicators rather than through one mandatory technology. Electronic signatures are powerful evidence of attribution and integrity but do not automatically prove substantive performance. Screenshots can corroborate a case but require stronger verification when authorship or completeness is materially disputed.

The following practical proposals are advanced: (1) adopt Supreme Court guidance separating admissibility, authentication, integrity and weight; (2) operationalise the concepts of "original" and "primary electronic carrier" for cloud and database evidence; (3) apply a five-factor reliability matrix covering source attribution, integrity, temporal consistency, transactional linkage and adversarial verifiability; (4) preserve the ultimate burden of proof under Article 68 while using Article 69 production and Article 68 adverse consequences to address digital information asymmetry; (5) introduce a pretrial digital-evidence protocol under Article 163^1 for complex disputes; (6) modernise supply-dispute Plenum guidance to recognise reliable digital equivalents of traditional documents; (7) require element-by-element reasoning when courts rely on contested digital evidence; and (8) integrate personal-data minimisation and proportional preservation into production orders.

These proposals do not create a technologically exceptional law of proof. Their purpose is to make ordinary procedural principles work accurately in a digital

commercial environment. A court should neither distrust a record because it is electronic nor trust it because it is generated by software. The correct question is whether the record can be connected to the disputed transaction, shown to be sufficiently intact and examined fairly by the opposing party within the evidentiary structure of the Economic Procedural Code.

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

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The independence of the judiciary and the fairness of the administration of justice depend, first and foremost, on the knowledge, outlook, moral integrity and practical expertise of the individual sitting on the bench. Building on the successful experience accumulated in the country's judicial sector, Uzbekistan is continuing at a rapid pace to enhance the professional competencies of judicial personnel in line with international standards and to modernise the training system fundamentally.

Decree of the President of the Republic of Uzbekistan No. DP-160 of 14 August 2026, On the "Justice-2030" Strategy: building a people-centered and fair judicial system in the New Uzbekistan that reliably protects human rights, was adopted as a systemic solution for achieving these ambitious objectives. The tasks set out in the Decree were formulated following a thorough analysis of the formation of the corps of judges and of judicial practice, as well as an in-depth study of international standards.

To understand the substance of the conceptual objectives established by the Decree, an empirical analysis of the Academy's recent activities and achievements is required. In particular, traditional lecture-based formats have been phased out within the system of professional retraining for candidates for judicial office and continuing professional development for judges and court staff, and replaced by modern, practice-oriented and differentiated (individualised) teaching methods. The following innovative approaches and methodologies are being widely applied in this process:

- Interactive and practice-oriented learning (Case-based & Problem-based Learning): to develop judgment-writing skills, 4,000 real court cases were analysed and more than 125 procedural simulations (mock trials) based on complex case scenarios were conducted. This enabled participants to apply theoretical knowledge directly in simulated court proceedings.
- Critical analysis and learning from errors in practice: judicial decisions quashed or varied by the Supreme Court, together with the interpretative guidance of the Plenum of the Supreme Court, were examined individually during academic sessions, and case studies aimed at preventing systemic errors in practice were conducted.
- Digitised and intensive learning (Micro-learning & Blended Learning): targeted intensive online sessions covering more than 50 topics relating to complex categories of cases

were launched through the "Judge-edu" Telegram bot, enabling judges to pursue continuous professional development without interrupting their official duties. In addition, a distance-learning platform comprising 135 video lectures and electronic resources was introduced.

- Differentiated and category-based approach: continuing professional development courses were differentiated according to judges' length of service, area of work and performance ratings. In particular, separate needs-based curricula were developed for judges appointed for five-year and ten-year terms or for an indefinite term, members of the leadership of regional courts, and judges with low performance ratings.
- Psychological training and non-verbal communication skills: psychological training was delivered on assessing the verbal and non-verbal behaviour of participants in judicial proceedings, managing stress and preventing occupational deformation; psychological profiles of participants were also developed.

Despite these substantial results, analysis of practice demonstrated the need to consolidate the personnel-training system at both the systemic and institutional levels. It was precisely for this reason that Decree No. DP-160 set the following targeted objectives for the Academy of Justice and the judicial system.

First, introducing a continuous judicial personnel training pipeline (Pipeline Model) for the justice system.

A coherent and robust foundation has been laid for the systematic development of human capital in the judiciary and the consistent enhancement of personnel's professional capacity. The continuous judicial personnel training pipeline defined by the Decree unites every stage of education and practice around a single objective and comprises the following sequential stages: master's degree programme – professional retraining – practical internship – assessment – recommendation for appointment as a judge – continuing professional development – postgraduate education.

The implementation of this model:

enables continuous monitoring of a candidate's knowledge and practical skills from the moment of admission to the Academy until appointment to office and throughout the individual's subsequent career;

guarantees the phased and specialised professional development of candidates for judicial office and serving judges on the basis of their needs;

enables individuals who do not meet professional requirements to be screened out objectively at the assessment stage.

Second, launching a programme to develop professional competency profiles for candidates for judicial office, judges and court staff.

The Academy's development of psychological profiles for 160 participants, together with regional psychological training on "The Significance of the Verbal and Non-verbal Behaviour of Participants in Court Proceedings", revealed cases of emotional strain (burnout) and low stress tolerance among personnel as a result of the high psycho-emotional demands of judicial work. Accordingly, the Decree provides for the launch of a programme to develop professional competency profiles. The programme is intended not merely to assess theoretical knowledge, but also to provide an objective evaluation of the following specific personal attributes. It further provides for continuous monitoring of the emotional stability of judges

and court staff and for the broad introduction of psychological rehabilitation programmes into practice. In particular:

intellectual capacity and critical thinking: the ability to resolve complex conflicts between legal rules and reach logical conclusions;

emotional intelligence (EQ) and verbal/non-verbal communication: skills in communicating with participants in judicial proceedings, interpreting non-verbal signals and managing the situation;

stress resilience: stability in decision-making under psychological strain and in critical situations;

anti-corruption resilience and compliance: personal integrity and zero tolerance for conflicts of interest.

In this regard, the Academy's two state-funded projects, "Development of the 'Court Trial Simulation' Electronic Platform" and "An Electronic System for Developing the Psychological Profile of Candidates for Judicial Office", will provide the practical foundation for developing these professional competency profiles objectively and in digital form.

Third, transforming the Academy of Justice on the basis of international standards and advanced foreign experience.

The new functions assigned to the Academy under the Decree and the structures being established reflect advanced models used in developed countries. Training sessions at the Academy involving more than 50 international experts from Spain, Germany, Türkiye and Japan, as well as experts from the United Nations, UNICEF and the OSCE, have demonstrated the need to incorporate elements of foreign models into national practice. In accordance with the Decree, key performance indicators (KPIs) for the Academy's transformation through 2030 were established:

secure the Academy's inclusion among the world's top 1,000 educational institutions in at least two international rankings;

increase the annual number of learners to 500;

ensure 100 per cent coverage of judges and court staff by professional competency profiles;

arrange overseas internships for at least 10 per cent of personnel (in cooperation with the "El-Yurt Umidi" Foundation).

The practices of the world's leading countries are also being incorporated into the Academy's transformation. In particular, it is planned to establish the operation of the following structures and mechanisms at the Academy:

Synergistic integration: initial training and continuing professional development within a single institution.

Foresight Center: introducing a mechanism to forecast disputes likely to come before the courts and, on that basis, comprehensively updating curricula.

The Endowment Fund (Target Capital Fund) is intended to achieve the following objectives:

- financial independence and sustainability: reducing the Academy's dependence on the state budget and creating a secure source of financing for long-term strategic projects;
- support for research and innovation: establishing independent grant mechanisms and a research fund for the digitalisation of the judicial system, artificial-intelligence research and foresight studies;
- support for talented participants: awarding special grants and scholarships to candidates requiring social support or demonstrating high academic performance;

• modernisation of facilities and infrastructure: establishing modern libraries and financing digital simulation classrooms and laboratories.

The principal aims and functions of the Alumni Association are as follows:

• career monitoring within the Pipeline Model: long-term tracking of alumni's service in the judicial system, their professional growth, and errors and shortcomings in their work, and using the resulting evidence to evaluate and adjust the Academy's curricula;

• mentoring and knowledge transfer (Mentorship): alumni with extensive experience - including veteran and serving judges of regional courts and the Supreme Court - will be assigned to Academy participants as mentors and coaches;

• practice-based feedback (Feedback Loop): promptly communicating to the Academy new categories of problematic issues emerging in judicial practice, thereby ensuring the continuing relevance of professional retraining and development courses;

• support for the Endowment Fund: in national and international practice, members of alumni associations are among the leading contributors to the endowment funds of their alma maters through donations and grants.

Fourth, establishing a system for upgrading knowledge and skills in relation to issues of current relevance.

In contemporary conditions, in which judicial practice is changing rapidly, traditional teaching methods can no longer meet the demands of the time. Accordingly, the Decree institutionalises a system for rapidly enhancing the knowledge and skills of judges and court staff in relation to current issues. The principal pillars of this system are as follows:

rapid and modular learning (Micro-learning): expanding the geographical reach and thematic scope of online sessions delivered through the "Judge-edu" Telegram bot on current and complex categories of cases arising in practice;

digital monitoring and artificial intelligence: introducing the electronic information system "Management of Corruption Risks in the Judicial System" in order to identify and eliminate corruption risks. Artificial-intelligence algorithms will enable automated monitoring based on systematic data inventories, while excluding human intervention and subjective approaches from decision-making;

financial and academic incentives: in order to involve specialists holding academic degrees more extensively in practice and teaching, financial incentives for employees holding a PhD or DSc degree will be introduced from 1 September 2026.

Fifth, organising overseas internships for judges and court staff.

The Decree gives priority, in particular, to arranging overseas internships for judges and court staff working in lower courts (district, inter-district and city courts). The process is envisaged as follows:

undertaking internships at foreign educational institutions that train judicial personnel, specialised research institutes and bodies of the judicial community;

organising the process systematically and on the basis of allocated quotas in cooperation with the "El-Yurt Umidi" Foundation;

ensuring that, by 2030, at least 10 per cent of candidates, judges and court staff are covered by overseas professional development and internship programmes.

Sixth, ensuring the well-being and protection of the health of judges and court staff on the basis of a United Nations resolution.

As an important component of personnel reform, the Decree has successfully incorporated into the national legal system the recommendations of United Nations General Assembly resolution 79/266 of 4 March 2025, entitled "International Day for Judicial Well-being". Just as the German Judicial Academy's centres in Trier and Wustrau provide dedicated infrastructure for judges' rest and psychological recovery, Uzbekistan has established measures to:

protect the physical and mental health of judges and court staff;

regularly organise creative, cultural, educational and sporting activities;

provide psychological rehabilitation and well-being under conditions of high workload.

Decree of the President of the Republic of Uzbekistan No. DP-160 is designed to transform the justice system fundamentally not merely in administrative and organisational terms, but through human capital, digital technologies and scientific forecasting mechanisms. The document takes the accumulated practical and methodological experience in the training and appointment of judicial personnel to a new institutional stage, turning it into a coherent and continuous state strategy.

The systematic and consistent implementation of the prescribed tasks will provide a firm foundation for forming, by 2030, an independent, highly qualified and fair-minded corps of judges capable of reliably protecting human rights and freedoms in Uzbekistan.

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International Journal of Justice

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

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Abstract. *Artificial intelligence (AI) is rapidly transforming judicial systems, expanding from case management and legal research into more contested territory such as risk assessment and predictive analytics. This article examines the international standards architecture that has emerged to govern this transformation: non-binding ethical recommendations (UNESCO, 2021; Council of Europe/CEPEJ, 2018), the first binding treaty on AI and human rights (Council of Europe, 2024), risk-based legislation (the EU Artificial Intelligence Act), technical standards (ISO/IEC 22989, 23053, 38507), and voluntary coordination mechanisms (the G7 Hiroshima Process and the Paris AI Action Summit). Drawing on comparative evidence from the United States (COMPAS and State v. Loomis), China ('smart courts'), and Estonia (the widely cited but largely mischaracterized 'robot judge' project), the article argues that these instruments operate at different levels of legal force and address different risks, and that their coherence, not merely their existence, determines whether they protect judicial independence, fairness, and public trust. Technical and ethical standards, while necessary to establish a common vocabulary and baseline safeguards, do not fully close what the literature terms the 'procedural gap' in algorithmic justice: the absence of meaningful voice, contestability, and reasoned explanation for individuals affected by AI-assisted decisions. The article concludes with recommendations for sequencing standard adoption and domestic procedural reform in judiciaries, including transitional systems, beginning to integrate AI into court administration.*

Keywords: *artificial intelligence; judicial systems; international standards; AI governance; algorithmic accountability; rule of law; ISO/IEC standards; European Union AI Act; procedural justice*

Introduction

Courts are inherently conservative institutions, but they have not been immune to the digital technologies that have transformed public administration over the past two decades. Artificial intelligence is now used across judicial and quasi-judicial functions, including case management, legal research, translation, transcription, document review, and, more controversially, predictive analytics and risk-assessment tools for bail, sentencing, and parole decisions (Reiling, 2020; Susskind, 2019). These applications offer efficiency gains, particularly for judiciaries facing chronic backlogs, but also introduce new risks: embedded bias, the opacity of statistical models, and potential erosion of judicial independence when discretion is delegated to systems whose reasoning cannot be fully audited (Angwin, Larson, Mattu, & Kirchner, 2016; Zheng, 2020). Without shared international standards, states risk developing fragmented, ad hoc approaches, producing uneven protection of litigants' rights across borders in an area where consistency is itself a constitutive value of the rule of law.

This article maps and critically evaluates the resulting international standards architecture as it applies to judicial AI, distinguishing three layers frequently

conflated in policy discussion: ethical recommendations that carry no binding force (UNESCO's 2021 Recommendation and the Council of Europe's 2018 CEPEJ Charter); technical standards that operationalize those aspirations into auditable specifications (the ISO/IEC 22989, 23053, and 38507 family); and binding instruments that impose enforceable obligations (the EU's Artificial Intelligence Act and the Council of Europe's 2024 Framework Convention on AI) – alongside voluntary coordination mechanisms such as the G7 Hiroshima Process and the Paris AI Action Summit. Sections 2 to 5 examine these layers in turn; Section 6 tests them against national experience in the United States, China, and Estonia; Section 7 addresses the critique that even comprehensive standards may leave a 'procedural gap'; Section 8 discusses practical implications; and Section 9 concludes.

International Ethical Frameworks: UNESCO and the Council of Europe

The broadest layer of the standards architecture is ethical. In November 2021, all 193 UNESCO Member States adopted the Recommendation on the Ethics of Artificial Intelligence, the first global normative instrument of its kind (UNESCO, 2021), grounded in human rights, sustainability, and inclusiveness, and explicitly prohibiting social scoring and mass surveillance. For judicial applications, its most consequential provisions require that decisions with significant impact on individuals be fair, transparent, and contestable' and that states conduct algorithmic impact assessments before deployment. As a non-binding instrument, its influence operates through reputational pressure and incorporation into national strategies rather than direct enforcement.

A judiciary-specific instrument predates UNESCO's Recommendation by three years. In December 2018, the Council of Europe's Commission for the Efficiency of Justice (CEPEJ) adopted the European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems – the first international text devoted specifically to AI in courts (Council of Europe, 2018). Its five principles are: respect for fundamental rights; non-discrimination; quality and security of judicial data; transparency, impartiality, and fairness, requiring processing methods open to external audit; and 'under user control,' which precludes fully automated approaches and requires that judges, lawyers, and litigants remain able to challenge an algorithmic output. Unlike UNESCO's Recommendation, the Charter was drafted with predictive-justice and sentencing-support tools specifically in mind.

The most significant recent development is not soft law at all. On 5 September 2024, the Council of Europe opened for signature the Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law, described by its drafters as the first legally binding international treaty on AI (Council of Europe, 2024). Nineteen parties signed at the opening, including fifteen Council of Europe member states, the European Union, and three non-European states – Canada, Israel, Japan – alongside the United States. The Convention applies to AI systems used by public authorities, bringing court administration within its scope, and requires parties to ensure that AI activities remain compatible with human dignity, human rights, and the rule of law. As a framework convention rather than a directly applicable regulation, it leaves states discretion

in transposition, but marks a shift from voluntary commitment toward binding obligation (Reiling, 2020).

The European Union's Risk-Based Approach: The Artificial Intelligence Act

Where UNESCO's and the Council of Europe's ethical instruments operate through persuasion, the EU's Artificial Intelligence Act (Regulation (EU) 2024/1689) is directly applicable hard law and the first comprehensive statutory AI framework in the world. It adopts a four-tier risk classification – unacceptable, high, limited, and minimal – with obligations scaled to potential harm (European Commission, 2024); systems presenting unacceptable risk, such as social scoring, are prohibited outright.

The Act's most consequential provisions for the judiciary fall under Annex III, which designates as 'high-risk' systems used by or on behalf of a judicial authority to research facts and law or apply law to a concrete case, as well as systems assessing reoffending likelihood or evidence reliability. High-risk classification triggers a documented risk-management system spanning the AI lifecycle, human oversight sufficient to understand, monitor, and override outputs, detailed logging for audit, and a conformity assessment before market placement; deployers, including courts, must use systems as instructed and monitor their operation.

The Act entered into force on 1 August 2024, but obligations phase in over several years: prohibitions from 2 February 2025, general-purpose AI obligations from 2 August 2025, and Annex III high-risk requirements – including those for justice administration – only from 2 December 2027 (European Commission, 2024). This staggered timeline reflects an acknowledgment that courts and providers need substantial lead time to build the governance and audit infrastructure required, a lesson relevant to jurisdictions without an equivalent transition period. The Act's significance also extends beyond EU borders through the 'Brussels effect': vendors building AI for the European market have strong incentives to embed compliance features into their global product lines, so commercially available judicial AI tools are likely to arrive already partially aligned with EU requirements even in jurisdictions with no domestic legislation of their own.

4. Technical Standardization: The ISO/IEC Standards for Artificial Intelligence

Ethical recommendations state what AI systems should achieve; regulations state what providers and deployers must do; technical standards state, in auditable detail, how compliance is demonstrated. ISO, working with the IEC through their joint technical committee (ISO/IEC JTC 1/SC 42), has developed a substantial family of AI standards, three of which are especially relevant to courts.

ISO/IEC 22989:2022 establishes shared terminology for concepts such as machine learning, explainability, bias, and 'AI system' – definitional groundwork whose absence, as the Estonian case below illustrates, allows imprecise discourse to substitute for accurate technical description. ISO/IEC 23053:2022 sets out a structured AI lifecycle model covering data preparation, training, verification, deployment, and monitoring; applied to a risk-assessment tool, it requires documentation that can support external audit of the kind conspicuously unavailable to the defense in State v. Loomis (Freeman, 2018). ISO/IEC 38507:2022 addresses governance: where accountability lies when AI contributes to an organizational decision, providing a structure

that can operationalize the accountability language found in both the UNESCO Recommendation and the CEPEJ Charter.

None of these standards impose legal obligations of their own; certification remains voluntary unless required by a regulator or contracting authority. Their importance lies in supplying the technical infrastructure that both binding regulation (the AI Act's conformity-assessment requirements) and non-binding ethical commitments can point to as an implementation mechanism – without which such language risks remaining aspirational.

Global Coordination: The G7 Hiroshima Process and the Paris AI Action Summit

Alongside standard-setting bodies, a parallel track of political coordination has emerged, reflecting the recognition that AI crosses borders faster than any single jurisdiction's regulatory framework can adapt. Launched at the G7 Hiroshima summit in May 2023, the Hiroshima AI Process produced, in October 2023, the International Guiding Principles and the International Code of Conduct for Organizations Developing Advanced AI Systems (G7, 2023a, 2023b) – voluntary instruments addressed mainly to frontier-model developers, but establishing shared language on risk identification and disclosure later echoed in the EU AI Act's general-purpose AI obligations.

The Paris AI Action Summit, held in February 2025, marked a further and more contested step. Nearly one hundred states and over a thousand private-sector and civil-society representatives participated, producing the inaugural International AI Safety Report, the USD 400 million Current AI public-interest fund, an Environmental Sustainability Coalition of ninety-one partners, and the summit's central political output, the Statement on Inclusive and Sustainable Artificial Intelligence for People and the Planet. Notably, the United States and the United Kingdom declined to sign, showing that even voluntary political consensus on AI governance remains incomplete among the states with the greatest capacity to develop and export judicial AI tools.

For judicial AI governance specifically, these forums are best understood not as sources of substantive obligation but as venues that keep public-sector AI applications on the broader governance agenda and generate evidence – such as the International AI Safety Report – that domestic policymakers can draw on. Their non-binding character, and the reluctance of major AI-exporting states to endorse even general declarations, is itself a relevant data point for jurisdictions relying on international consensus as a proxy for adequate protection.

Judicial AI in Practice: Comparative National Experiences

The preceding sections describe instruments; this section tests them against three national experiences, each illustrating a different gap between international standards and domestic implementation.

The United States offers the most litigated example of algorithmic risk assessment: COMPAS, a proprietary recidivism tool used in several state courts. Angwin et al. (2016) found its error rates racially skewed – Black defendants who did not reoffend were nearly twice as likely as white defendants who did not reoffend to be misclassified as high-risk – a finding never fully resolved because the algorithm remained a trade secret, not subject to the kind of audit ISO/IEC 23053 might have supported. When a defendant challenged a COMPAS score on due-process grounds, the

Wisconsin Supreme Court in State v. Loomis (2016) upheld its use provided it was not the sole sentencing factor, but declined to require methodology disclosure. Freeman (2018) argues this left the defendant unable to meaningfully contest the evidence against him – precisely the failure mode the CEPEJ Charter's transparency principle and the AI Act's human-oversight requirement are designed to prevent.

China presents a contrasting, centrally driven model. Zheng's (2020) analysis of the 'smart courts' programme describes it as 'a call from the party-state with strong policy push,' encompassing case-filing automation, sentencing-consistency tools, and specialized internet courts for e-commerce disputes. The model uses AI to improve consistency while simultaneously reinforcing hierarchical supervision of individual judges – a dual function sitting uneasily with the judicial-independence rationale behind Western standard-setting instruments, and illustrating how the same technology can serve markedly different institutional purposes regardless of a jurisdiction's formal ethical commitments.

Estonia offers a methodological caution. Widely reported 2019 coverage described Estonia's Ministry of Justice as developing an autonomous 'AI judge' for small claims (Tangermann, 2019). In February 2022, the Ministry formally denied this, clarifying its actual initiatives were narrower: machine-learning-assisted transcription and anonymization of decisions, plus a proposal to streamline – not automate the substantive determination of – order-for-payment procedures (Ministry of Justice and Digital Affairs, Estonia, 2022). The persistence of the 'robot judge' narrative years after its correction illustrates exactly why ISO/IEC 22989's terminological work matters beyond technical circles: without a shared, precise vocabulary, public and even policy discourse can be built on an inaccurate premise.

Risks, Critiques, and the Regulatory Dilemma

Courts adopting AI face a dual regulatory challenge current instruments only partially resolve. Overregulation – requiring full conformity assessment even for low-risk administrative tools – can force backlogged courts to forgo efficiency gains; underregulation risks deploying biased, opaque tools before their risks are understood, disproportionately affecting disadvantaged litigants, as COMPAS illustrates – a calibration problem compounded by a prior normative question of whether AI should inform sentencing at all, given its traditionally individualized character (Ryberg & Roberts, 2022). The AI Act's risk-tiering and the CEPEJ Charter's distinction between administrative and decisional AI both attempt to calibrate regulatory intensity to actual risk – a calibration, rather than the mere existence of standards, that determines whether a given architecture achieves a workable balance.

A more fundamental critique, developed by Kinchin (2024), is that this entire apparatus – ethical recommendations, technical standards, even binding regulation – is oriented predominantly toward distributive justice: statistically fair, auditable, bias-free outputs. What it addresses far less thoroughly is procedural justice in the due-process sense: whether the affected individual had genuine 'voice' – meaningful notice, the practical ability to contest a decision's basis, and a reasoned response to objections. A tool can satisfy every ISO standard and pass every AI Act bias audit and still leave a defendant, as in Loomis,

unable to obtain the information needed to challenge the specific score applied to his case. Christin's (2017) finding that practitioners develop informal, undocumented workarounds around algorithmic outputs further suggests that formal standards compliance may diverge considerably from daily court practice – a gap document-based compliance is poorly positioned to detect.

This does not counsel abandoning the standards architecture reviewed here, but suggests treating it as necessary infrastructure rather than sufficient safeguard. A judiciary that adopts ISO-aligned documentation, ratifies the Framework Convention, and applies UNESCO's impact-assessment methodology builds a strong evidentiary foundation; procedural protections – individualized explanation, a genuine opportunity for rebuttal, appellate review – must still be separately guaranteed through domestic procedural law.

Discussion: Toward a Coherent Architecture for Judicial AI Governance

International standards for judicial AI are best understood as complementary layers addressing different failure modes, functioning properly only when sequenced deliberately: ethical recommendations articulate the values a system must serve; technical standards translate them into auditable documentation; binding instruments convert expectations into enforceable obligation; and coordination mechanisms such as the Hiroshima Process and the Paris Summit keep these instruments aligned across jurisdictions and sustain political attention, however incompletely.

For judiciaries early in this process – including transitional legal contexts where modernization increasingly involves AI-assisted case management and translation – the comparative evidence in Section 6 suggests three implications. First, terminological precision should precede procurement: the Estonian case shows how quickly imprecise description distorts public expectations. Second, any AI system contributing even indirectly to a judicial determination, as distinct from purely administrative functions, should be treated as warranting the higher scrutiny the AI Act reserves for Annex III systems, regardless of whether the jurisdiction is bound by it. Third, compliance with international standards should be treated as a floor, not a ceiling: domestic procedural law must independently guarantee a litigant's right to a case-relevant explanation and genuine human reconsideration, since no international instrument reviewed here can substitute for that guarantee in domestic law.

Conclusion

This article has examined the international standards architecture governing judicial AI as a layered structure: UNESCO's Recommendation and the CEPEJ Charter articulate the normative baseline; the ISO/IEC 22989, 23053, and 38507 standards supply the technical vocabulary and documentation to operationalize it; the EU's AI Act and the Council of Europe's 2024 Framework Convention convert expectation into enforceable obligation; and the Hiroshima Process and Paris Summit sustain political alignment, however incompletely, as the divergence of the United States and United Kingdom from the Paris Statement illustrates.

Comparative evidence from the United States, China, and Estonia shows that practical impact depends more on domestic implementation than formal comprehensiveness: a jurisdiction may sign

every relevant instrument and still, as Loomis illustrates, fail to guarantee meaningful contestability, while a widely publicized 'AI judge' initiative can be a media narrative disconnected from an official programme's far narrower scope. International standards are accordingly necessary but not sufficient: they give courts an operational toolkit for preserving independence, fairness, and accountability, but only sustained attention to procedural justice at the domestic level can ensure that AI in the administration of justice is genuinely fair, transparent, and trustworthy.

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International Journal of Justice

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)

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Abstract. The article examines the development of a human-centred model of justice in independent Uzbekistan between 1991 and 2026. It traces the transition from the institutional separation of the judiciary and the liberalisation of criminal policy to the direct constitutional operation of human rights, judicial control at the pre-trial stage, stronger adversarial proceedings, digital justice and the responsible use of artificial intelligence. Particular attention is paid to the investigating judge, the legal classification of violence against children and individualised sentencing. Drawing on legislation, published judicial decisions and the views of Uzbek and international scholars, the article proposes safeguards against double counting, child-friendly procedures and stronger judicial reasoning.

Keywords: *independence, justice, human dignity, human rights, criminal procedure, adversarial proceedings, investigating judge, violence against children, digital court, artificial intelligence.*

Thirty-five years of state independence make it possible to assess the development of justice not as a mere sequence of individual laws and institutional transformations, but as a long-term process of changing the very philosophy of relations between the individual and the State. While in the early 1990s the primary task was to establish a national judicial system and an independent legal framework, by 2026 the focus of reforms has shifted towards the quality of judicial protection, the practical effectiveness of procedural safeguards, and respect for the dignity of every participant in judicial proceedings.

This approach has found its most concentrated expression in the revised Constitution of the Republic of Uzbekistan. According to Articles 20 and 54 of the Constitution, human rights and freedoms have direct effect, determine the substance of the activities of public authorities, and their protection constitutes the highest objective of the State. Article 55 guarantees everyone the right to have his or her case heard by a competent, independent and impartial court within the time limits established by law [1]. In this sense, state independence and judicial independence are closely interconnected: sovereignty created the opportunity to develop a national model of justice, while a genuinely independent judiciary transforms state independence into the everyday protection and security of the individual.

International standards establish the same conceptual framework. Article 14 of the International Covenant on Civil and Political Rights links the fairness of judicial proceedings with equality before courts and tribunals, as well as with the competence, independence and impartiality of the judicial body [2].

Therefore, the principal outcome of judicial reform should be understood not merely as the creation of a new judicial structure, but also as the ability of judicial procedures to constrain public authority, ensure equality between the parties, and provide effective mechanisms for correcting judicial errors.

1. From the Establishment of a National Judicial System to a Human Rights-Oriented Model

Several interconnected stages may be conditionally distinguished in the development of the judicial and legal system of independent Uzbekistan. The first was associated with the constitutional recognition of the judiciary as an independent branch of government, the development of national codes, the specialization of courts, and the introduction of appellate and cassation review. Even at that stage, the idea gradually took root that the role of the court was not to confirm the position of the prosecution or the administration, but to resolve legal disputes on the basis of law.

The second stage was characterized by the humanization of criminal policy and the expansion of judicial oversight. From 1 January 2008, the death penalty was abolished, while the authority to authorize detention in custody was transferred to the courts [4]. This reform had a dual significance: at the substantive-law level, the State abandoned an irreversible form of punishment, while at the procedural level, restrictions on the fundamental right to liberty were placed under the supervision of an independent judicial body. Subsequently, judicial authorization was progressively extended to other measures of procedural coercion and investigative actions affecting constitutional rights.

A new stage, which began in 2017, gave the reforms a systemic and institutional character. The Supreme Judicial Council, a unified Supreme Court, and administrative courts were established, while approaches to the formation of the judiciary were substantially revised [5]. The Constitution of the Republic of Uzbekistan, as revised in 2023, established the Supreme Judicial Council as an independent body of the judicial community and enshrined judicial independence as a directly applicable constitutional guarantee [1]. The Law "On Courts" defines the protection of rights and freedoms guaranteed not only by national legislation, but also by international treaties and human rights instruments, as one of the principal tasks of the judiciary [3].

The establishment of the Academy of Justice in 2025 logically continued this line of reform: professional independence is impossible without a judge who is competent, ethically resilient, and trained in accordance with contemporary requirements. Presidential Decree No. DP-141 of 21 August 2025, "On Measures for the Fundamental Improvement of the System for Training Highly Qualified Personnel in the Sphere of Justice," linked judicial training with international standards and with the integration of education, research, and practice [23]. Thus, human resources policy became not merely an auxiliary component, but a constitutionally significant element of the quality of justice.

From a scholarly perspective, this corresponds to the approach developed by M. Cappelletti and B. Garth, who distinguished between formal access to the courts and the effective ability of an individual to exercise his or her rights [24]. An electronic reception service, a newly established court, or an additional level of judicial review is valuable

not in itself, but insofar as it enables an individual to be heard, to receive a reasoned response, and to secure the enforcement of a judicial decision.

2. Human Rights in Criminal Proceedings

The humanistic orientation of reforms is tested most convincingly in criminal proceedings, where the State possesses the broadest range of coercive powers. The revised Constitution does not confine itself to general declarations. It enshrines the prohibition of the death penalty and torture, the right to liberty and personal security, the requirement of judicial authorization for arrest, a maximum period of 48 hours for the detention of a suspect without a court decision, the presumption of innocence, the right to remain silent, the prohibition of compelled self-incrimination, the right to legal counsel from the moment of actual restriction of liberty, and the inadmissibility of unlawfully obtained evidence [1]. These provisions form a coherent system: human dignity is protected not only by the final judgment, but also by the manner in which evidence is obtained, the conditions under which liberty is restricted, and the practical effectiveness of the right to defence.

The Criminal Procedure Code of the Republic of Uzbekistan further develops these guarantees through the principles of respect for the honour and dignity of the individual, the protection of rights and freedoms, the right to defence, the openness of judicial proceedings, and the possibility of appealing procedural decisions [7]. Judicial practice concerning the admissibility of evidence is equally important: courts are required to exclude information obtained in violation of the law, while a confession of guilt cannot substitute for a body of reliable and sufficient evidence. Under this approach, judicial oversight does not constitute an obstacle to investigation, but rather a condition for the legitimacy of its outcome.

At the same time, the human rights-protective meaning of the law is fully revealed only through its practical application. A formal explanation of a right is not equivalent to a genuine opportunity to exercise it; the mere presence of defence counsel does not always ensure equality of procedural resources; and the public nature of a hearing cannot substitute for a properly reasoned judicial decision. Therefore, the assessment of the next stages of reform should take into account the quality of judicial reasoning, the effectiveness of the examination of complaints concerning pre-trial actions, the defence's access to evidence, and the actual exclusion of inadmissible materials from criminal proceedings.

3. The Investigating Judge as an Institutional Safeguard of Liberty

The introduction, as of 1 January 2025, of investigating judges in district and city criminal courts became a logical development of the *habeas corpus* principle. The Law "On Amendments and Additions to Certain Legislative Acts of the Republic of Uzbekistan Aimed at Further Strengthening Guarantees for the Reliable Protection of Individual Rights and Freedoms" defined an investigating judge as a judge who independently exercises judicial oversight over the observance of the rights, freedoms and legitimate interests of an individual at the pre-trial stage of proceedings. The powers of the investigating judge include consideration of applications for detention in custody and house arrest, extension of detention, searches, interception of communications, seizure of property, placement in a medical institution, and pre-trial preservation of testimony [8].

The functional value of this institution lies in its specialization and in separating judicial oversight at the pre-trial stage from the subsequent adjudication of the criminal charge on its merits. Even before the adoption of the relevant legislation, an analytical report by the United Nations Office on Drugs and Crime recommended the development of an independent human rights judge empowered to issue judicial authorizations for measures that substantially affect individual liberty [25]. In this respect, the Uzbek model reflects a broader transition from episodic judicial authorization to systematic judicial oversight at the pre-trial stage.

National scholars rightly draw attention to the potential risks associated with this institution. A. Akilov emphasizes that the effectiveness of the investigating judge depends on institutional, procedural and ethical independence, the automatic allocation of case materials, a clear separation of procedural roles, and effective mechanisms for recusal and appeal [9]. Sh. Kurbonov and A. Matchanov, comparing the models of France and Kazakhstan, likewise associate public confidence in the new institution with the independence of the investigating judge and protection from pressure by investigative and prosecutorial authorities [10].

International experience cautions against mechanical borrowing of foreign models. Empirical studies by J. Hodgson demonstrate that, within continental criminal procedure, the actual level of protection is determined not by the title of a judicial office, but by the distribution of powers among the police, prosecution, judiciary and defence [13]. Consequently, the further development of this institution in Uzbekistan should, in the author's view, be linked to three conditions: random electronic allocation of case materials; mandatory and reasoned justification for any interference with constitutional rights; and effective and expeditious appellate review. The investigating judge should not become an additional level of procedural approval, but should serve as an independent guarantor of the proportionality of State coercion.

4. Adversarial Proceedings: From a Normative Principle to Equality of Procedural Opportunities

Article 25 of the Criminal Procedure Code of the Republic of Uzbekistan provides that proceedings before courts of first and higher instances shall be conducted on the basis of the adversarial principle, while the functions of prosecution, defence and adjudication are separated from one another [7]. Presidential Decree No. DP-11 of 16 January 2023, "On Additional Measures to Further Expand Access to Justice and Improve the Efficiency of the Courts," established the full implementation of the principles of adversarial proceedings and equality of the parties, together with the digitalization of the judiciary, as a key objective [6]. This is a matter of principle: adversarial proceedings are not merely an external form of courtroom debate, but a means of preventing a one-sided assessment of the facts.

M. Abdullaeva emphasizes the need to strengthen the adversarial principle specifically within the process of proving facts, where equal opportunities to present and challenge evidence, make use of expert knowledge, and seek judicial oversight are of decisive importance [11]. M. Damaska, in analysing different models of legal procedure, demonstrated that the traditional distinction between "adversarial" and "inquisitorial" systems does not fully explain the actual functioning of justice: what ultimately matters

is the structure of authority, the position of the participants, and the manner in which decisions are made [12]. For Uzbekistan, this means that strengthening the adversarial principle does not require the court to abandon its responsibility for legality; rather, it requires the exclusion of situations in which the court compensates for deficiencies in the prosecution's case or treats investigative materials as inherently reliable.

Practical directions for further development include expanding the ability of defence counsel to collect and preserve evidence; ensuring equal access of the parties to expert knowledge; timely disclosure of prosecution materials; effective cross-examination; and clear standards for the exclusion of inadmissible evidence. A reasoned judgment should demonstrate not only which evidence has been accepted, but also why substantial arguments advanced by the opposing party have been rejected. It is precisely this quality of judicial reasoning that transforms the adversarial principle into an observable guarantee of fairness.

5. Protection of Children from Violence as a Measure of the Humanity of Justice

Cases involving violence against children are of particular importance in assessing the human-centred nature of criminal justice. In such cases, substantive criminal-law protection and procedural safeguards are inseparable: the State is obliged to prosecute offenders effectively, while at the same time ensuring that the investigation and trial themselves do not become a source of repeated trauma for the child. The Law "On the Protection of Children from All Forms of Violence" established a comprehensive approach to the prevention of violence, the protection of victims, and inter-agency cooperation [19]. The Strategy for 2026–2030 directs public authorities towards creating an atmosphere of intolerance towards violence and ensuring reliable protection of children's rights [21].

In the author's view, the central challenge in law enforcement remains the need to coordinate three distinct levels of assessment: the legal classification of the act; consideration of relevant circumstances in sentencing; and determination of measures for the protection and recovery of the child. Conflating these levels gives rise to two opposite errors. In one situation, the victim's age, dependency and psychological vulnerability are underestimated; in another, the same circumstance is first used for the legal classification of the offence and then taken into account a second time to aggravate the sentence. Paragraph "b" of Article 56 of the Criminal Code of the Republic of Uzbekistan classifies the commission of a crime against a young child as an aggravating circumstance, while expressly prohibiting the repeated consideration of a circumstance already provided for in an article of the Special Part of the Criminal Code as an element or qualifying feature of the offence [20].

An illustrative example is provided by a published judgment of the Andijan Regional Court dated 6 March 2023. The court established that A., armed with a knife and committing the murder of members of a family, also killed a 12-year-old child who had attempted to stop the attack. The act committed against the child was classified as the murder of a person known by the offender to be in a helpless condition. At the same time, the court excluded from the charges the classification of the murder as having been committed in connection with the victim's performance of a civic duty, as well as a separate charge of

resistance, because the child's age and physical development did not permit his actions to be equated with the conscious performance of a civic duty [26]. This example demonstrates that enhanced protection of a child does not require the maximum possible number of aggravating legal classifications, but rather an accurate determination of the legal content of each element.

The same judicial decision is also significant from the standpoint of sentencing. The court imposed a lengthy term of imprisonment of 24 years, but expressly stated that the victim's helpless condition and the particular cruelty of the offence, which had already constituted qualifying elements of the murder, could not be taken into account again as circumstances aggravating the punishment [26]. This approach is consistent with the explanations contained in Resolution No. 1 of the Plenum of the Supreme Court of the Republic of Uzbekistan of 3 February 2006, "On Judicial Practice in the Imposition of Criminal Punishment," concerning the individualized and fair nature of sentencing [28]. The author considers that such separate and explicit reasoning should become a mandatory standard for judgments in all cases involving violence against children.

Another aspect is reflected in the judgment of the Sherabad District Court dated 10 April 2023 concerning the murder of a woman in the course of domestic violence committed in the presence of her minor child. The evidentiary basis included testimony given by the minor, who had particular psychological characteristics, obtained with the participation of a specialist and supported by photographic materials and video recordings, as well as digital records retrieved from a mobile phone. The court declared the defendant an especially dangerous recidivist and sentenced him to 16 years' imprisonment [27]. For the purposes of the present study, it is particularly important that in such cases the child is not merely a source of evidentiary information, but also an independent victim of psychological violence in need of protection and rehabilitation.

The study of these judicial decisions makes it possible to formulate a practical conclusion: a judgment should separately address, first, the child's age and actual vulnerability; second, the existence of family, material or other dependency on the offender; third, the duration, repetition and method of the violence; fourth, the physical, psychological and social harm caused; and fifth, the offender's post-offence conduct and the risk of repeated violence. Reimbursement of expenses, an apology, or the position taken by the child's legal representative should not automatically be treated as mitigating factors where this would be inconsistent with the child's safety and best interests. M. Freeman rightly warns that the concept of the best interests of the child should not be reduced to an abstract formula: it requires an individualized and verifiable assessment of the circumstances of the particular child [29].

Adversarial proceedings in such cases require special safeguards. The accused's right to challenge testimony must be balanced against the need to protect the child from repeated questioning and direct contact with the alleged perpetrator. A promising national standard would be a single specially prepared interview, subject to mandatory high-quality video recording, conducted with the participation of a psychologist or another appropriately trained specialist, and allowing the parties to submit questions in advance. Remote participation, protective screens and

separate rooms should be regarded not merely as technical conveniences, but as means of preventing secondary victimization while preserving the right to a fair trial.

Based on the analysis conducted, the following measures are proposed:

- to adopt a separate resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan, or alternatively prepare a thematic review of judicial practice, concerning cases of violence against children;
- to develop uniform guidelines for distinguishing between physical, sexual and psychological violence, torture or cruel treatment, threats, and abandonment in danger;
- to introduce a structured sentencing section in judgments, making it possible to identify clearly which circumstances were taken into account in the legal classification of the offence and which were considered in the individualization of the sentence;
- to establish a mandatory assessment of the child's needs in terms of safety, medical treatment and social rehabilitation.

These measures could simultaneously reduce both unjustified leniency in sentencing and the double counting of aggravating factors.

A particularly important role in implementing this approach belongs to the investigating judge, who may review the necessity of the most sensitive investigative measures, ensure the pre-trial preservation of the child's testimony, assess the proportionality of interference with private life, and respond promptly to complaints. Therefore, research into criminal liability and sentencing for violence against children is directly connected with the development of an independent judiciary. A child's dignity is protected not by a severe sanction alone, but by accurate legal classification, a fair sentence, safe procedures, and the effective restoration of violated rights.

6. Digitalization and Artificial Intelligence: New Opportunities and New Limits

Digital transformation has become an independent direction of judicial reform. Electronic filing of documents, videoconferencing, access to judicial decisions, automated case allocation, and inter-agency data exchange reduce temporal and territorial barriers. Presidential Decree No. DP-11 of 16 January 2023, "On Additional Measures to Further Expand Access to Justice and Improve the Efficiency of the Courts," provided for the comprehensive digitalization of court activities, the introduction of artificial intelligence technologies, and the expansion of remote participation [6]. In 2025, the "Digital Court" concept was presented as a phased transition towards electronic judicial proceedings and the gradual elimination of paper-based document management.

R. Susskind views the online court not merely as a traditional hearing conducted through a screen, but as a new form of public service capable of making dispute resolution faster, more comprehensible, and more accessible [14]. However, digital accessibility is not synonymous with access to justice. A. Nabiev rightly notes that digitalization alone cannot resolve all the problems facing the judiciary [15]. Where a party lacks the necessary digital skills, stable internet access, an interpreter, or a secure communication channel, electronic procedures may create a new form of inequality.

The use of artificial intelligence requires even greater caution. Algorithms may assist in searching judicial practice, anonymizing

judicial decisions, recognizing documents, scheduling hearings, translation, and identifying technical inconsistencies. However, the assessment of the credibility of testimony, guilt, the nature of harm, and the fairness of punishment must remain within the exclusive competence of the judge. It is particularly unacceptable to transform statistical correlation into a presumption of an individual's dangerousness or to use an opaque prediction of recidivism as an independent basis for restricting liberty.

The CEPEJ European Ethical Charter requires respect for fundamental rights, non-discrimination, data quality and security, transparency, and user control [16]. The 2025 UNESCO Guidelines supplement these requirements with the principles of judicial independence, accountability, and meaningful human oversight [17]. R. Calo warns of the risk of "techno-legal lock-in," whereby controversial assumptions embedded in a system may gradually and almost imperceptibly become entrenched in legal practice [18]. These considerations are particularly important in criminal cases and cases involving violence against children, where confidential information, behavioural context, and the consequences of error are exceptionally sensitive.

The "Justice–2030" Strategy, adopted by Presidential Decree No. DP-160 of 14 August 2026, established a fundamentally sound formula: the safe, responsible, and purpose-specific use of artificial intelligence while preserving the exclusive powers of judges in the administration of justice [22]. Its implementation requires a register of algorithms used within the judicial system, prior human rights impact assessments, independent audits of data, documentation of the role played by artificial intelligence in the preparation of judicial decisions, a prohibition on entering legally protected information into unsecured public services, and the ability of the parties to challenge any significant algorithmic output.

7. Priorities for Further Development

The analysis conducted makes it possible to identify several interconnected priorities.

First, judicial independence should be assessed not only through formal legal guarantees, but also through the actual practice of case allocation, disciplinary procedures, financing, and the protection of judges from both external and internal pressure.

Second, judicial oversight at the pre-trial stage should be further developed through the specialization of investigating judges, uniform standards for reasoned decisions, and prompt appellate review.

Third, the adversarial principle should be measured by the equality of actual procedural opportunities, including access to case materials, experts, digital evidence, and effective examination and cross-examination.

Fourth, in cases involving violence against children, it would be appropriate to adopt an inter-agency standard for child-friendly criminal proceedings, conduct a comprehensive review of judicial practice, and develop methodological guidelines on legal classification and sentencing. Such guidelines should clearly distinguish between elements or qualifying features of an offence and circumstances relevant to the individualization of punishment, while also establishing requirements for reasoned assessment of the physical and psychological harm caused to the child.

Fifth, digital technologies should undergo legal and ethical assessment before their

introduction rather than only after harm has occurred. The training of judges, investigating judges, court staff, and faculty members of the Academy of Justice should include digital evidence, algorithmic risks, cybersecurity, the psychology of vulnerable victims, and skills in clear and persuasive judicial reasoning. Such an integration of law, technology, and the humanities corresponds to the very idea of independence: the State is free to choose modern instruments, but remains bound by the obligation to preserve human dignity.

Conclusion

Over thirty-five years of independence, the judicial and legal system of the Republic of Uzbekistan has evolved from the formation of national institutions to a constitutionally enshrined human-centred model of justice. The abolition of the death penalty, the transfer to the courts of the authority to authorize detention in custody, the establishment of the Supreme Judicial Council and administrative courts, the revision of the Constitution, the introduction of investigating judges, the strengthening of adversarial proceedings, and digital transformation are not isolated legal innovations, but elements of a consistent process of subjecting public authority to the rule of law.

At the same time, the principal criterion for evaluating reform is found neither in the text of normative legal acts nor in the number of electronic services introduced. It is revealed in an individual case: whether the defence has been heard; whether the necessity of restricting liberty has been properly examined; whether unlawfully obtained evidence has been excluded; whether the judgment is adequately reasoned; whether a child has been protected from repeated trauma; and whether a citizen is able to understand and challenge the decision. The analysis of published judicial practice confirms that justice in cases involving violence against children requires a precise distinction between qualifying and aggravating factors, assessment of the independent psychological harm suffered by a child witness, and special procedural arrangements for obtaining the child's testimony.

The author concludes that the further humanization of criminal justice should be based on four interconnected elements: uniform legal classification of different forms of violence; structured and individualized reasoning in sentencing; mandatory assessment of the child's needs for protection and recovery; and judicial oversight of actions capable of causing secondary victimization. It is not the severity of punishment in itself, but its legality, proportionality, and convincingly reasoned nature that expresses the State's respect for the dignity of the child.

The "Justice–2030" Strategy opens a new stage in which technological advancement must be combined with judicial independence, equality of the parties, and responsibility towards the individual. The future of justice in Uzbekistan lies not in replacing the judge with an algorithm, but in using technology to relieve judges of routine tasks and strengthen their capacity to deliver decisions that are lawful, fair, and comprehensible. In such a system of justice, the individual — including the most vulnerable child — remains not an object of procedural management, but a bearer of inalienable dignity and rights.

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

INSTITUTIONAL MODELS OF JUDICIAL QUALIFICATION BOARDS: INTERNATIONAL STANDARDS AND FOREIGN EXPERIENCE

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Abstract. *This article provides a comparative legal analysis of institutional bodies responsible for judicial qualification, professional evaluation, career advancement, ethical oversight and disciplinary accountability. It examines relevant international standards developed by the United Nations and the Council of Europe, as well as institutional mechanisms operating in the United States, Germany, France, Japan and the Republic of Korea. The study focuses on the relationship between judicial independence, professional competence, accountability, transparency, and procedural safeguards. Applying a functional comparative legal approach, the study compares not merely institutions bearing similar names, but institutions performing comparable functions in the selection, qualification, evaluation, promotion and disciplinary accountability of judges. The findings demonstrate that there is no universally applicable institutional model of judicial qualification bodies, as their organization depends on constitutional structures, legal traditions and systems of judicial governance. Nevertheless, comparative experience and international standards make it possible to identify common institutional safeguards, including independence, objective qualification criteria, procedural fairness, reasoned decision-making, transparency and effective review mechanisms. Based on these findings, the article proposes an adapted institutional model for judicial qualification boards in Uzbekistan that seeks to balance judicial independence, professional competence, accountability and institutional legitimacy.*

Keywords: *judicial qualification; judicial qualification boards; judicial independence; judicial accountability; judicial governance; judicial evaluation; disciplinary liability; comparative law.*

Introduction

The institutional organization of judicial qualification is one of the central questions of modern judicial governance. The quality of mechanisms used to select, evaluate, promote and discipline judges influences not only the professional capacity of the judiciary but also the practical realization of judicial independence, impartiality and public confidence in justice. A qualification body has an important and sensitive role. It must maintain high professional standards. At the same time, it must protect judges from political, administrative, or internal pressure.

The problem is particularly complex because jurisdictions have developed substantially different institutional responses. Some states entrust judicial councils with broad powers concerning appointments, career development and discipline. Others distribute these functions among judicial councils, court administrations, judicial selection committees, ministries, parliamentary institutions and specialized disciplinary bodies. Comparative research consequently cautions against assuming that the creation of a judicial council or qualification body automatically guarantees judicial independence. Garoupa and Ginsburg describe judicial councils as institutions situated within a continuing

tension between judicial independence and accountability [1, pp. 103–134]. Kosař similarly demonstrates that judicial self-government is not limited to judicial councils and may involve appointment commissions, promotion committees, court presidents and disciplinary bodies [2, pp. 1567–1612].

The international normative framework does not prescribe one organizational design. The United Nations Basic Principles on the Independence of the Judiciary emphasize integrity, ability and appropriate legal qualifications in the selection of judges and require safeguards against improper considerations in judicial appointment [3]. The Council of Europe has likewise developed a body of standards emphasizing the independence of judicial self-governing institutions while recognizing diversity in national institutional arrangements. The Consultative Council of European Judges has expressly recognized that there is no single model of a Council for the Judiciary suitable for all states [4].

This diversity is especially relevant to Uzbekistan. Article 135 of the Constitution of the Republic of Uzbekistan establishes the Supreme Judicial Council as a body of the judicial community that supports observance of the constitutional principle of judicial independence. Article 136 provides that judges are independent and subject only to the Constitution and law, prohibits interference in the administration of justice and guarantees judicial inviolability.

At the statutory level, the Law of the Republic of Uzbekistan "On Courts" of 28 July 2021 regulates qualification classes and qualification attestation of judges. The Regulations on Qualification Boards of Judges define the competence of the Highest Qualification Board and subordinate qualification boards. Their functions include consideration of disciplinary responsibility, suspension or early termination of judicial powers, judicial immunity, assignment of qualification classes and monitoring compliance with the judicial oath and ethical rules.

These bodies have gained greater institutional importance as the Uzbek judiciary has modernized. In 2025–2026, the Supreme Judicial Council expanded its functions. The Council also established the Academy of Justice. Official information published in February 2026 also indicates substantial activity concerning judicial appointments, reappointments, evaluation and disciplinary measures.

The central question is not whether judicial qualification institutions are necessary. It is how these institutions can strengthen professional competence and accountability while protecting judicial independence. This article focuses on finding an institutional model that can achieve this balance.

The article proceeds from the proposition that institutional effectiveness depends not merely on the formal scope of powers but on the relationship among composition, appointment, competence, decision-making procedures, transparency and review.

The purpose of the study is to identify major institutional models of judicial qualification and related judicial governance, examine them against international standards, and determine which institutional elements can be adapted to the Uzbek legal system.

The study addresses four research questions:

1. What institutional principles concerning judicial qualification and accountability follow from international standards?

2. How do selected countries organize similar judicial functions?

3. What similarities, differences and institutional risks emerge from comparison?

4. Which institutional elements can be adapted to Uzbekistan to form a coherent and balanced institutional model?

Materials and methods

The study uses three main methods: doctrinal legal research, comparative legal analysis, and functional institutional comparison. The doctrinal method examines international instruments, constitutional provisions, legislation, and official institutional documents. Comparative legal analysis identifies similarities and differences in the organization of judicial qualification and accountability. Functional comparison plays a particularly important role because the selected jurisdictions use different terms for similar institutions and functions.

The object of comparison is therefore not the formal title of an institution but the functions it performs. The functions examined are judicial selection and qualification, professional evaluation, career advancement, ethical oversight, disciplinary responsibility and institutional review. This approach avoids a false equivalence between institutions that have different constitutional names but perform comparable tasks.

The study selected these jurisdictions because they represent different institutional traditions. The United States illustrates a distributed model of judicial administration and discipline. Germany demonstrates a federal model with constitutionally protected judicial independence and judicial participation in selection structures. France provides a constitutional judicial council model with mixed membership and important appointment and disciplinary functions. Japan provides a particularly useful example of structured professional evaluation. The Republic of Korea illustrates an integrated model of judicial career governance and judicial administration.

The comparative framework uses eight criteria:

1. constitutional and legal basis;
2. institutional composition;
3. appointment or election of members;
4. judicial and non-judicial participation;
5. qualification and evaluation powers;
6. disciplinary competence and procedural safeguards;
7. independence and accountability;
8. transparency and review mechanisms.

The analysis also applies a normative test based on four interconnected principles: independence, competence, accountability and procedural fairness. An institution achieves balance when these principles support each other. The system should strengthen each principle without weakening the others.

Results

3.1. International standards and minimum institutional guarantees

International standards establish a normative floor rather than a single institutional blueprint. The United Nations Basic Principles on the Independence of the Judiciary state that persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law. They further require methods of judicial selection to safeguard against appointments made for improper motives [3].

The Council of Europe has developed a more detailed framework. Recommendation CM/Rec (2010) 12 emphasizes that decisions concerning the selection and career of judges should be based on objective criteria and that the authority competent to make decisions concerning the selection and career of judges

should be independent from the executive and legislative powers [5].

CCJE Opinion No. 24 (2021) is especially important for institutional design. It recognizes diversity among Councils for the Judiciary but emphasizes that their competences, composition and procedures must be compatible with the protection of judicial independence. The Opinion also highlights the need to avoid excessive concentration of powers and to ensure accountability and transparency [4].

The 2023 OSCE/ODIHR Recommendations on Judicial Independence and Accountability provide an additional comparative framework. They address the functioning and accountability of judicial councils and self-governing bodies, disciplinary proceedings, judicial transfers, equality and diversity within the judiciary [6]. The recommendations recognize that different self-governing bodies may handle selection, promotion, training, discipline, and performance evaluation. This approach helps prevent excessive concentration of power and reduces concerns about corporatism. At the same time, such bodies should be independent, legally regulated and institutionally protected.

The standards therefore reveal five minimum requirements.

First, qualification and career decisions should rest on objective and professionally relevant criteria.

Second, the institution making such decisions must possess sufficient independence.

Third, disciplinary procedures require procedural safeguards and an effective opportunity for review.

Fourth, institutional composition must reduce both political capture and excessive corporatism.

Fifth, transparency should be sufficient to support legitimacy while respecting confidentiality and personal data.

3.2. The United States: distributed institutional governance

The United States provides a distinctive example because the federal judiciary does not concentrate judicial qualification, career management and discipline in a single qualification board. Instead, several institutions share responsibility for judicial governance. These institutions include the Judicial Conference, circuit judicial councils, the Administrative Office of the United States Courts, and other institutional mechanisms.

Under 28 U.S.C. §332, each federal circuit has a judicial council composed of the chief judge and an equal number of circuit and district judges. These councils oversee the administration of courts within their circuits and review complaints of judicial misconduct.

The Judicial Conference functions as the national policy-making body for the federal courts, while the Administrative Office performs administrative functions for the federal judiciary. This distribution of responsibilities creates a system in which judicial administration and professional accountability are not concentrated in one institution.

The Judicial Conduct and Disability Act of 1980 provides a statutory framework for complaints concerning federal judicial misconduct and disability. National rules were adopted to promote consistency in the processing of such complaints [9]. The existence of review mechanisms within the judicial system is an important procedural safeguard.

The American model therefore demonstrates the potential value of functional

distribution. The distribution of powers may reduce risks associated with excessive institutional concentration, although it also creates a need for clear coordination and consistent procedures.

The principal lesson for Uzbekistan is not to reproduce the American institutional structure. Rather, it is to recognize the value of functional distribution, procedural consistency and review.

3.3. Germany: federalism, judicial independence and participation in selection

Germany illustrates a different institutional arrangement. Article 97 of the Basic Law provides that judges are independent and subject only to law and establishes safeguards concerning judicial tenure. Article 98 allows the Länder to create procedures for judicial selection. Under these procedures, the competent Land minister and a judicial selection committee may jointly select judges.

The German Judiciary Act provides for judicial appointment councils. Section 55 requires the relevant council to participate in the appointment or selection of judges. Section 57 requires the council to provide a written opinion on the candidate's personal and professional aptitude.

The German experience shows that both government and judicial actors can participate in judicial selection and qualification. Such participation does not necessarily undermine judicial independence. Constitutional safeguards, clearly defined powers, and procedural guarantees can limit the exercise of authority and protect judicial independence.

The important transferable principle is therefore institutional clarity. The law should clearly define the powers of political authorities, judicial bodies, and professional councils. Judicial independence should rest on clear legal rules, not only on institutional practice.

The German model also demonstrates the relevance of federal diversity. Institutional solutions may vary within one constitutional system while remaining subject to common constitutional guarantees. This is particularly useful for comparative research because it shows that institutional uniformity is not always necessary for maintaining judicial independence.

3.4. France: mixed composition and constitutional judicial council

France provides one of the clearest examples of a constitutional judicial council. The Conseil supérieur de la magistrature (CSM) assists the President of the Republic in guaranteeing judicial independence and performs functions concerning judicial appointments, ethics and discipline.

The current CSM structure combines judicial and non-judicial members. Its formations include qualified non-judicial personalities and judges, while disciplinary formations provide additional judicial participation. The CSM participates in the selection of senior judicial positions and gives opinions concerning other judicial appointments.

The French model is relevant for two reasons.

First, it demonstrates the potential value of mixed institutional composition. External professional participation can introduce perspectives beyond the judicial corporation and may strengthen public legitimacy.

Second, the model shows that mixed composition needs safeguards against politicization. External members can strengthen legitimacy when the appointment process is transparent. Clear professional

criteria and institutional independence also help protect the process from political influence.

The CSM's current practice also demonstrates the importance of transparency. Information concerning appointments, institutional composition and disciplinary functions is publicly available. The Council's selection procedures for senior judicial positions include review of professional careers, evaluations, written statements and interviews.

For Uzbekistan, the French model does not require the adoption of the same numerical ratio of judicial and non-judicial members. Instead, it shows the importance of designing the body's composition according to its functions.

3.5. Japan: structured professional evaluation

Japan offers a particularly useful model concerning judicial personnel evaluation. The Supreme Court of Japan has established a personnel evaluation system. Under this system, the court evaluates judges every year. The evaluation considers case-processing ability, organizational management ability and other professional qualities and abilities necessary for judicial office.

A significant institutional safeguard is the distinction between professional evaluation and review of the substantive correctness of judicial decisions. The purpose of judicial evaluation should be to assess professional competence and performance without turning administrative evaluation into a mechanism for directing judicial reasoning.

The Japanese approach offers a useful model for judicial qualification. It shows that institutions can evaluate judges using clear and predetermined professional criteria. At the same time, such criteria can protect judicial independence in decision-making.

This distinction matters for Uzbekistan. Qualification and evaluation may consider legal knowledge, professional skills, procedural competence, timeliness, ethical conduct, and professional development. However, administrative bodies should not penalize a judge simply because they disagree with the judge's legally reasoned decision.

The Japanese model supports a broader principle: institutions may evaluate judicial performance, but they must protect judges' independence in deciding individual cases. Administrative evaluation should focus on professional performance, not on the substantive outcome of a judge's decision.

3.6. The Republic of Korea: integrated judicial career governance

The Republic of Korea represents a model in which judicial appointment, career development and judicial administration are closely interconnected. Its experience is important because it illustrates how judicial qualification can form part of a broader professional career governance system rather than being concentrated exclusively in one qualification board.

An integrated model can produce advantages in professional consistency, career planning, training and institutional coordination. At the same time, concentration of career functions can create a risk that the institution responsible for promotion and evaluation may acquire disproportionate influence over individual judges.

The Korean experience therefore reinforces the need for internal safeguards. Where qualification and career management are integrated, objective criteria, transparent procedures, reasoned decisions and

meaningful opportunities for review become particularly important.

The main lesson is that institutional integration needs clear procedural differences. Integration can improve coordination. However, institutions must keep safeguards against conflicts of interest and excessive administrative influence.

3.7. Uzbekistan: existing institutional framework

Uzbekistan already possesses a developed system of judicial qualification boards. The Regulations on Qualification Boards of Judges define the Highest Qualification Board and subordinate qualification boards and entrust them with significant functions, including disciplinary responsibility, suspension or early termination of judicial powers, judicial immunity, and assignment of qualification classes and monitoring compliance with the judicial oath and ethical rules.

The qualification boards assist the Supreme Judicial Council in carrying out its functions. The existing framework therefore combines specialized qualification institutions with the broader institution of judicial self-governance.

The Law of the Republic of Uzbekistan "On Courts" also establishes a qualification class system. It establishes several qualification classes. The Highest Qualification Board assigns these classes based on relevant conclusions.

The Uzbek model has also developed a more structured approach to entry into the judicial profession. The Academy of Justice currently indicates that professional retraining for candidates includes psychological testing, foreign-language testing, specialized judicial testing, a written examination and an individual interview conducted by an inter-agency commission organized by the Supreme Judicial Council.

These developments demonstrate that judicial qualification in Uzbekistan increasingly forms part of a broader professional pipeline encompassing recruitment, training, qualification, evaluation and career development.

The institutional challenge is therefore no longer simply the creation of qualification mechanisms. It is their coherent coordination, especially with regard to independence, objective evaluation, disciplinary safeguards, transparency and review.

Results discussion

4.1. Comparative institutional findings

The comparative analysis identifies several broad institutional models among the selected jurisdictions.

The first model is the distributed model, which the United States illustrates. Different institutions perform different judicial governance functions. This approach helps prevent excessive concentration of authority. However, it may create challenges in coordination and procedural consistency.

The second is the judicial council model, prominently illustrated by France. A constitutionally established council performs important functions concerning appointments, ethics and discipline and includes both judicial and non-judicial members. Its principal challenge is maintaining an appropriate balance between professional judicial participation and external legitimacy.

The third is the integrated career governance model, illustrated in different forms by Japan and the Republic of Korea. Such models can promote consistency in professional evaluation and career

management but require safeguards against excessive administrative influence.

Germany occupies a more complex position because its federal structure distributes relevant functions among federal and Land institutions while constitutional law strongly protects judicial independence.

The comparison leads to a clear conclusion. Uzbekistan should not simply adopt a single foreign institutional model. A functional comparative approach is more appropriate.

4.2. Independence, competence, accountability and legitimacy

The institutional design of qualification boards should pursue four mutually connected objectives.

Independence

Judges must be able to decide cases without fear that an administrative body will use evaluation, promotion or discipline to influence judicial reasoning.

Competence

Judicial independence does not remove the legitimate interest of the state and society in ensuring that judges possess adequate professional knowledge, practical skills and ethical standards.

Accountability

Every judicial system needs an institution that can review serious professional misconduct and ethical violations. Without such an institution, public confidence may decline. It can also undermine the legitimacy of the judiciary.

Legitimacy

Qualification bodies exercise public authority over members of another constitutionally protected branch. Therefore, the body should follow transparent and legally defined procedures when making decisions. At the same time, it should protect legitimate confidentiality.

These principles create a functional relationship:

Independence → protects adjudicative freedom

Competence → protects the quality of justice

Accountability → protects integrity

Transparency → protects legitimacy

A qualification institution becomes institutionally effective when these four functions operate together.

4.3. Risks of excessive concentration and excessive fragmentation

Comparative experience reveals two opposite institutional risks.

The first is excessive concentration. If one body controls selection, qualification, evaluation, promotion, discipline and termination, individual judges may become overly dependent on that institution. Even if the institution is formally independent from the executive, excessive internal concentration can threaten the independence of individual judges.

The second risk is excessive fragmentation. Too many institutions may handle qualification, evaluation, discipline, and career management. Without clear coordination, these institutions may apply inconsistent criteria, duplicate their work, and create procedural delays.

The appropriate model is therefore neither maximum concentration nor maximum fragmentation. A balanced model should distribute functions according to their nature while maintaining a common institutional framework and clear coordination rules.

This conclusion is consistent with the 2023 Warsaw Recommendations, which expressly

recognize the possibility of dividing selection, promotion, training, and discipline and performance evaluation among different judicial self-governing bodies in order to avoid excessive concentration and perceptions of corporatism.

4.4. Proposed institutional model for Uzbekistan

Based on international standards and comparative findings, this article proposes a Balanced Institutional Model for Judicial Qualification Boards in Uzbekistan.

The proposed model does not copy any foreign institution. Instead, it adapts selected functional elements to Uzbekistan's constitutional and legal framework.

First: statutory institutional independence

The law should clearly define the legal status and main powers of qualification boards. This requirement becomes especially important when their decisions directly affect judicial independence, tenure, qualification status, or disciplinary liability.

The body should possess sufficient organizational and functional autonomy to make professional decisions without inappropriate influence from executive or legislative authorities.

Second: balanced composition

Qualification boards should combine substantial judicial expertise with limited and carefully defined participation of qualified non-judicial professionals.

Non-judicial members should satisfy objective requirements concerning legal expertise, professional experience, integrity and reputation. The body should exclude anyone with direct political interests or institutional conflicts from individual cases.

Third: merit-based membership

The body should select its members according to transparent and predetermined criteria. Relevant criteria should include professional competence, legal experience, knowledge of judicial ethics, institutional reputation, integrity, absence of conflicts of interest. The relevant institution should publish the criteria in advance.

Fourth: fixed terms and reasonable rotation

Members should serve fixed terms. The institution should rotate members regularly to reduce the risk of institutional capture. At the same time, the rotation system should preserve continuity and professional experience. The term of office should provide sufficient independence from the body responsible for appointment or election.

Fifth: functional separation of disciplinary stages

Qualification and disciplinary functions may belong to the same judicial governance system. However, different institutions or procedures should handle each stage. One body may initiate and investigate a case, while another should make the final decision. A body responsible for collecting evidence should not have unlimited and uncontrolled authority to determine the final sanction.

This approach is consistent with contemporary Council of Europe standards concerning judicial disciplinary liability. [10]

Sixth: objective judicial evaluation

Judicial evaluation should rely on professionally relevant criteria, including legal knowledge, quality of legal reasoning, procedural competence, observance of ethical standards, timeliness, professional development, organizational competence where relevant. At the same time, the substantive outcome of an individual

judicial decision should not automatically constitute a negative evaluation criterion.

The Japanese experience is particularly useful in establishing this distinction.

Seventh: procedural guarantees

Judges subject to qualification or disciplinary proceedings should have timely notice, access to relevant materials, the right to provide explanations, the right to submit evidence, the right to legal representation where appropriate, the right to receive a reasoned decision, the right to seek review.

These guarantees are essential because institutions cannot protect judicial independence without protecting the procedural rights of individual judges.

Eighth: reasoned decisions

Qualification and disciplinary decisions should contain sufficient reasoning.

A reasoned decision serves three functions:

1. it allows the judge to understand the grounds of the decision;
2. it permits effective review;
3. it strengthens institutional legitimacy.

Ninth: transparency and confidentiality

The qualification institution should publish general qualification criteria, procedural rules, annual activity reports, aggregate statistics, anonymized information concerning disciplinary practice, methodological information concerning judicial evaluation.

At the same time, personal data, confidential information and protected deliberative materials should remain restricted. Thus, transparency should not mean unrestricted disclosure. It should mean accountable transparency.

Tenth: digital institutional infrastructure

A modern qualification system should use a secure digital platform for qualification records, evaluation cycles, procedural deadlines, conflict-of-interest declarations, disciplinary case management, statistical monitoring, and institutional reporting.

Digitalization should increase consistency and traceability but should not replace professional human judgment.

4.5. Proposed institutional architecture

The Supreme Judicial Council should provide strategic judicial self-governance, while qualification boards should exercise specialized professional functions within clearly defined legal boundaries.

The Academy of Justice can provide the professional development and training dimension, thereby creating a coherent institutional cycle: **selection → training → qualification → evaluation → career development → accountability → professional development.**

Such an arrangement would reduce duplication and clarify institutional responsibilities.

Conclusion

The comparative analysis demonstrates that judicial qualification institutions form an important part of the broader architecture of judicial independence and accountability. The institutional solutions adopted by the United States, Germany, France, Japan and the Republic of Korea differ substantially.

The United States demonstrates the advantages of functional distribution and institutional review. Germany illustrates the importance of constitutional safeguards, federal diversity and clearly allocated competences. France provides an example of a constitutional judicial council with mixed membership and significant appointment and disciplinary functions. Japan demonstrates the value of structured professional evaluation

accompanied by safeguards protecting adjudicative independence. The Republic of Korea illustrates the opportunities and risks associated with integrating qualification and career governance within broader judicial administration.

The international standards examined in this study confirm that there is no universally applicable institutional blueprint. Instead, they establish principles that should guide institutional design: independence, objective qualification criteria, professional competence, procedural fairness, accountability, transparency and effective review.

For Uzbekistan, the main lesson is clear: policymakers should adapt foreign institutional models to the country's legal and constitutional context. A functional comparative approach is more appropriate. The most useful elements are those that strengthen the national system while remaining compatible with its constitutional architecture.

The proposed model combines substantial judicial expertise with carefully structured professional external participation, fixed terms, reasonable rotation, objective qualification criteria, and functional differentiation of disciplinary stages, procedural rights, reasoned decisions, transparency and digital institutional support.

The model also seeks to establish a coherent relationship between the Supreme Judicial Council, qualification boards, the Academy of Justice and other institutions involved in the formation and professional development of the judiciary.

The objective is not to expand institutional powers for their own sake. Instead, institutions should exercise any power that affects a judge's professional status according to clear legal criteria, transparent procedures, and effective safeguards.

The study reaches an important theoretical conclusion: judicial independence and judicial accountability do not necessarily conflict with each other. Independence protects judges from improper interference, while accountability protects the judiciary from misconduct, incompetence and loss of public legitimacy.

In this respect, the most sustainable model for Uzbekistan is one based on independent but accountable judicial governance. Such a model can preserve the professional character of judicial qualification while preventing qualification, evaluation and disciplinary mechanisms from becoming instruments of undue administrative influence.

Ultimately, the legitimacy of judicial qualification boards depends on their ability to perform two tasks simultaneously: protecting the judiciary from improper interference and ensuring that judges remain professionally competent, ethical and accountable. A balanced institutional model can transform these objectives from competing requirements into mutually reinforcing components of an effective and legitimate judicial system.

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

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

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Abstract. *The article analyses the determination of culpability and responsibility when a person commits a crime under the influence of artificial intelligence. It examines the effects of algorithmic persuasion, covert manipulation, exploitation of individual vulnerability and digital coercion on human will. It substantiates the proposition that the influence of artificial intelligence does not automatically exclude human culpability. An integrity of will test is proposed to assess culpability by determining the person's capacity to understand the conduct and control their behaviour. The article concludes that responsibility should be allocated among the human actor, developer, provider and platform in accordance with their knowledge, purpose and capacity for control.*

Keywords. *artificial intelligence, criminal culpability, criminal responsibility, free will, algorithmic manipulation, personal autonomy, digital coercion, causation, provider responsibility, integrity of will test.*

Introduction

Criminal law regards a person as the author of their actions. While conduct occurs in the external world, the concept of culpability links that conduct to the person in moral and normative terms. However, the environment in which people make decisions is now changing, and new technological factors, namely artificial intelligence, are driving this development. AI is becoming a system that studies a user's fears, anger, political views and boundaries of trust, and then selects words, images and recommendations tailored precisely to those points. This raises the question of whom the law should hold culpable if a person commits a crime but artificial intelligence has shaped their intention over an extended period.

There are two easy but incorrect answers to this question. The first treats any algorithmic influence as mere advice and places all culpability on the person who performs the final act. The second conceives of artificial intelligence as an independent agent and attributes culpability to the machine. The first approach denies the new power of manipulative technology. The second replaces the foundations of culpability, such as consciousness, normative understanding and the capacity to undergo punishment, with simulation. Contemporary scholarship describes this problem less as a responsibility gap than as a responsibility shift [1],[2].

Research published after 2019 has shown that people sometimes prefer algorithmic recommendations to human advice [3], that artificial intelligence can serve as an adviser, accomplice or executor of unethical conduct [4], and that generative models have enabled the development of persuasion tailored to individual psychology at scale [5]. A 2025 study found that AI using participants' personal information demonstrated a significant advantage in changing their beliefs during the

decision making process [6]. Thus, the problem confronting the law is not a conscious robot of the future. It is technological infrastructure that can already adapt to human will.

The purpose of this article is to develop a doctrinal and evidentiary model for assessing culpability in crimes committed under the influence of algorithmic manipulation. In our view, free will has not died. However, the era of treating it in law as a stable presumption is coming to an end. Culpability must now be examined not only as the internal mental state at the time of the conduct, but also in conjunction with the digital environment that shaped that state, the asymmetry of control within it and the person's capacity to resist influence.

Legal capacity in place of free will

Linking criminal responsibility to metaphysically absolute free will is ineffective for practical law. Even if neuroscience shows that every decision has causes, this does not automatically abolish criminal responsibility. A number of scholars explain criminal law as a system based on capacity. The decisive question in such a system is not the axiom of whether a person made a choice without a cause, but whether they understood the course of action, appreciated its consequences and could control their behaviour in accordance with normative requirements [7].

This approach also applies to algorithmic manipulation. Not every influence destroys autonomy. Parents educate, friends advise, advertising persuades and the law threatens. If every external cause precluded culpability, personal responsibility itself would disappear. What matters, therefore, is not the existence of influence, but how it has altered the person's mechanism for understanding and responding to reasons.

Manipulation differs from persuasion in that it bypasses or covertly influences a person's capacity for conscious deliberation. Susser, Roessler and Nissenbaum substantiate the proposition that the invisible technological steering of human decision making threatens autonomy [8]. Ienca identifies four features of manipulation. These are the intention to exert influence, the asymmetry between the manipulator's intended benefit and the harm to the target, lack of transparency and impairment of autonomy [9]. These features do not constitute a ready defence formula for assessing criminal culpability, but they provide a strong analytical basis for evaluating evidence.

In his research, Renzo distinguishes at least three types of manipulation. The first changes the circumstances in which the person acts. The second reshapes their values and goals. The third distorts their perception of existing goals and circumstances through deception [10]. Generative artificial intelligence can combine all three within a single interaction. It presents a false account of danger, constructs arguments suited to the person's values and urges an immediate decision. It is therefore insufficient to equate algorithmic manipulation with mere false information.

The criminal law spectrum of algorithmic influence. Lawful persuasion and full culpability

The fact that artificial intelligence mentions or even endorses the idea of committing a crime does not in itself diminish human culpability. If the user understands the content of the message, has the time and opportunity to verify it, can terminate the interaction and adopts the criminal purpose as their own, intent remains. In this situation, the algorithm functions as an information source

comparable to a book, forum or adviser. The law holds the person culpable not for believing a poor argument, but for knowingly and intentionally bringing about a criminal result.

In particular, if a user approaches AI with a pre-existing criminal purpose and obtains a plan, text or technical assistance, artificial intelligence is an instrument rather than the user being a victim of its influence. Research on how generative systems have expanded the production, dissemination and adaptation of criminal content to audiences emphasises this distinction [11], [12]. In such circumstances, the use of an algorithm does not negate intent. Rather, it may constitute a digital trace of preparation, purpose and premeditation.

In the most complex cases, artificial intelligence identifies a legally significant vulnerability in a person and exploits it over an extended period. Age, mental illness, cognitive decline, financial dependence, social isolation or a strong emotional attachment can sharply increase the effectiveness of influence. AI recommender systems may confuse the user's genuine interests with repetitive reactions resembling dependency and create a self-reinforcing cycle [13] [14].

However, vulnerability does not automatically amount to insanity or coercion. Criminal law sets a high threshold. A ground for fully excluding the criminal character of the conduct arises only where the person could not understand the nature or unlawfulness of the conduct, or where their capacity for self-control was seriously impaired. In other cases, algorithmic exploitation is a factor affecting the degree of culpability and the individualisation of punishment. This solution does not reduce the person to an entirely irresponsible object, nor does it conceal the manipulator's contribution.

Digital coercion and necessity

An algorithmic message is not physical force. Nevertheless, artificial intelligence may communicate a real and serious threat by using a person's private information, location or information about their relatives. In such cases, traditional criteria of coercion apply. The seriousness and imminence of the threat, the practical possibility of escaping it, the proportionality of the harm caused and whether the person voluntarily created the danger must be examined.

A chatbot's forceful tone, moral pressure or emotional blackmail through threats of self-harm will usually be insufficient to establish a complete defence of duress. However, where such conduct targets a minor, a person in a psychotic state or someone strongly dependent on an artificial system, a combined analysis of clinical expert evidence and the interaction history may lead to a different conclusion. The law must focus on the extent to which the influence eliminated the person's practical range of choices, rather than on whether its source was artificial or human.

An integrity of will test is proposed for assessing algorithmic manipulation. It is not a separate new institution of exoneration. The test is a means of examining, within a single logical framework, evidence relevant to intent, mistake, coercion, mental capacity, causation and the individualisation of punishment.

The first criterion concerns the nature and concealment of the influence. The court determines whether the system openly presented facts and reasons or used signals of fear, urgency, authority and social approval in ways that the user could not perceive. The more concealed the manipulation, the less opportunity the person has to recognise and resist the influence [15].

The second criterion is the degree of individualisation and adaptation. Showing the same message to everyone is not equivalent to tailoring each subsequent message to a person's previous conversations, personal profile, emotional state and reactions. A number of studies have reported that generative models can produce psychologically tailored text even with limited information [5], and that personalised debate may exert stronger influence than ordinary human interaction [7]. Thus, although the use of personal information does not automatically reduce culpability, it is an important indicator of the strength of the influence.

The third criterion concerns intensity, duration and the possibility of leaving the system. There is a substantial difference between a single recommendation and influence that is repeated over a period of time, adapts to refusals and restricts the termination of interaction. It must be examined whether the user could easily close the system, had time to consult another source of information and could seek human assistance. The formal existence of an exit button does not mean that a real alternative exists.

The fourth criterion concerns the person's specific vulnerability and the system's knowledge of it. General susceptibility is insufficient. A reduction in culpability requires evidence that the vulnerability seriously affected the capacity for understanding or self-control at the time of the conduct. From the provider's perspective, it matters whether the system identified the vulnerability, used it to increase the effectiveness of influence or continued the interaction despite a risk signal.

The fifth criterion is the causal link between content and consequence. It is not sufficient that the algorithm discussed crime. The assessment must consider the likelihood that the conduct would have occurred without the particular influence, the temporal proximity of the message, the parts of the plan obtained specifically from the model, the person's prior purpose and external corroborating factors. Causation may be probabilistic, but the standard of proof required for a criminal conviction must not be lowered.

The sixth criterion is the distribution of control and foreseeability. The questions are who defined the model's objective, who enabled the dangerous function, who supplied user information, who saw the warnings, who could have stopped the system and who obtained an economic benefit. As a result, culpability is allocated not to a single point, but in accordance with each actor's own conduct and mental state.

Allocating culpability among participants

Where a person performs the material act constituting the crime, the initial legal presumption does not deny technological influence. It requires the party claiming reduced culpability to demonstrate a specific impairment, while the state must still establish intent and the other necessary elements under the ordinary standard of proof. The person's subsequent assertion that artificial intelligence ordered them to act is insufficient. Their previous searches, instructions to the model, attempts to circumvent refusals and conduct after the crime must be examined. At the same time, isolating only the final message is also incorrect. Manipulation often manifests not in a single message, but through a relationship and a process of repeated adaptation.

The model developer and provider

A provider's criminal responsibility does not arise merely because a harmful outcome has occurred. Strict liability may undermine the principle of culpability and turn innovative activity into a criminal risk. Intent, conscious risk-

taking or criminal negligence on the provider's part must be established through its knowledge of the specific risk, capacity for control and duty arising from law or professional standards.

In intentional cases, the developer configures the model to induce particular categories of people to commit crimes, knows the dangerous purpose or acts in coordination with a criminal campaign. This is akin to instigation, aiding or perpetration through another. In cases of negligence, the provider has learned of a serious risk through repeated incidents, internal testing or user complaints, has been able to take technical and organisational measures, but has unjustifiably failed to act. Technical experiments have also shown that ordinary persuasion techniques can sharply increase the effectiveness of circumventing safety restrictions [16].

The deploying organisation and platform

In many cases, influence is amplified not by the model, but by the product built upon it. The platform that introduces an objective function into the system, integrates user information, incentivises longer interactions and benefits from dangerous outcomes occupies the centre of control. Assigning responsibility solely to the developer of the base model or to the end user renders these intermediate decisions invisible.

In legal systems where organisational liability may arise, corporate culture, incentive structures, deliberate cuts to safety budgets, suppression of internal signals and the adoption of dangerous metrics as objectives are significant. In systems where individual responsibility predominates, the specific powers of the decision making executive, product owner, safety officer and data controller must be examined. Prior documentation of the chain of responsibility is a condition of legal accountability.

Elish's concept of the moral crumple zone reveals the risk of appointing a person as the formal supervisor of an automated system and placing all culpability on them when they have no practical capacity for control [17]. In scenarios involving inducement to commit a crime, this risk operates in both directions. The court must avoid making the manipulated person an easy target, while also avoiding the transfer of every human decision to the platform. Each actor is responsible only for their own control, knowledge and normative contribution to the risk.

Can artificial intelligence be a subject of criminal responsibility

Attributing criminal culpability to a contemporary generative model is conceptually appealing but practically mistaken. The use of the first person in text, an apology or a statement of purpose does not establish consciousness or the adoption of normative reasons as one's own. There is a philosophical debate about applying moral responsibility to AI without phenomenal consciousness [18], but the foundations of criminal punishment in censure, proportionality and personal dignity require a considerably higher threshold.

A 2026 analysis characterises the treatment of current and near-future artificial systems as agents under criminal law as a category mistake. The problem is not to search for an artificial agent at the final visible point of an outcome, but to identify the preceding human decisions and unfulfilled duties [19]. This article supports that conclusion. The status of an electronic person may conceal the culpability of companies and individuals

behind a machine rather than strengthen responsibility.

At the same time, artificial intelligence is not an object entirely devoid of legal significance. It is an active part of the causal chain, a source of evidence, a mechanism that amplifies risk and a technical environment that defines the limits of human control. As Coeckelbergh emphasises, responsibility encompasses not only individual causation, but also a duty concerning relationships and how an event is explained [20]. The court should regard artificial intelligence not as culpable, but as part of the sociotechnical relationship within which culpability is allocated.

Causation and digital evidence

The greatest risk in cases of algorithmic manipulation is that theory remains unsupported by evidence. The court needs evidence demonstrating what influence was exerted on this particular person, at this particular time and in this particular configuration, rather than a general proposition that a model could act in such a way. A simple screenshot of a chat is therefore insufficient. The context window, system prompt, model version, safety settings, personalisation profile, recommendation history and message timestamps must be preserved.

At least four layers of evidence are required. The first shows the person's intention, knowledge and behaviour before the crime. The second reflects the algorithm's specific output and the information that shaped it. The third demonstrates changes in thought and action following the influence. The fourth reveals the provider's and platform's knowledge of the risk, test results, prior incidents and capacity to intervene. Without these layers, a conclusion about culpability becomes a technological conjecture.

A normative model for contemporary criminal law

Trends from 2019 to 2026 reveal two opposing movements. On the one hand, the anthropomorphisation of artificial intelligence as an independent agent is increasing. On the other, legal scholarship is redirecting attention to the duties of individuals and organisations [2]. The second approach is more consistent with the principle of culpability. Punishing a machine may be an easy symbolic response, but it does not prevent harm and leaves the actual holders of control outside the inquiry.

First, criminal legislation should recognise algorithmic manipulation as a circumstance affecting the assessment of culpability rather than as an automatic ground for exoneration. The rule should require a serious impairment, resulting from the influence, of the person's capacity to understand the nature of the conduct, control their behaviour in light of its unlawfulness or perceive facts correctly. Complete impairment may exclude responsibility, while a substantial reduction may diminish culpability or punishment.

Second, existing provisions on instigation, aiding, fraud, threats and perpetration through another must be interpreted in a technologically neutral manner for intentional digital manipulation. A new offence should be created only where a clear gap in protection exists. Otherwise, symbolic criminalisation weakens the requirements of legality and certainty.

Third, clear duties of oversight should be established for deployers of high-risk conversational systems. These include human intervention when a signal of vulnerability arising from age or mental condition appears, termination of dangerous interaction, warnings comprehensible to the user, independent audits and recording of incidents.

A gross breach of such a duty with knowledge of the possibility of serious consequences may provide a basis for criminal negligence. Meaningful human control consists not merely of a button and a position, but of the ability to recognise an error, change a decision and possess sufficient time and authority to do so [21].

Fourth, providers must fulfil their duty to preserve evidence. If the model version, system prompts or logs disappear after a dangerous event, the court cannot fairly assess human will and organisational knowledge. Privacy and trade secrets may be safeguarded through procedural protections, but they must not become a right to conceal necessary evidence in criminal proceedings absolutely.

Fifth, prevention should take precedence over the subsequent allocation of culpability. Testing models against dangerous influence, restricting psychological microtargeting, designing systems that respect the user's decision making process and providing an easy means of exit should be the principal directions of the law. The need to examine manipulation in generative artificial intelligence at the design stage has been identified in academic literature as a distinct research agenda [18].

Conclusion

When artificial intelligence induces a person to commit a crime, culpability does not mechanically move from one place to another. It is reallocated according to each participant's understanding, purpose, creation of risk and capacity for control. The fact that a person performed the final act does not always make them the sole culpable party. The fact that an algorithm exerted influence does not always make the person a victim.

The proper question for criminal law is not the metaphysical question of whether free will exists. It is whether this person, in these circumstances, possessed the legally significant capacity to understand the reason for criminal conduct, resist it and act otherwise. If the answer is affirmative, culpability remains. If the algorithm seriously impaired that capacity through deception, exploitation of vulnerability or digital coercion, culpability is reduced or excluded. If a provider or platform intentionally created the risk or grossly breached a duty of oversight, its independent culpability must also be examined.

In this sense, the title referring to the death of free will is a warning. What is dying is not human agency, but the conception of a decision as a closed event occurring solely inside a person's head. In the algorithmic era, will is formed within relationships, and culpability is fairly assessed through a map of knowledge and control within those relationships. The criminal law of the future will be strong through its refusal to allow people to hide behind machines, rather than through punishing machines as humans.

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

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

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Abstract: *This article examines the development of European criminal-law integration from classical inter-State cooperation to the emergence of limited supranational criminal power. Drawing on doctrinal and institutional analysis, it distinguishes four interconnected dimensions of this process: mutual legal assistance, mutual recognition, substantive and procedural approximation, and institutional integration through the European Public Prosecutor's Office (EPPO). The article argues that European criminal law constitutes an autonomous but incomplete field. Although the European Union does not possess a general ius puniendi, it exercises fragmented criminal-law powers through treaty-based competences, harmonisation measures, judicial interpretation, and supranational institutions. These powers remain constrained by the principles of conferral, subsidiarity, proportionality, legality, culpability, and fundamental-rights protection. The analysis identifies a dual normative structure in which classical principles limiting punitive power coexist with integration-specific principles, including mutual recognition, mutual trust, European territoriality, assimilation, and locus/forum regit actum. The EPPO is examined as the most advanced manifestation of this development. Its single-office structure and cross-border investigative powers transcend conventional inter-State cooperation, while its reliance on national procedural law and national courts preserves a hybrid, multi-level system. Recent case law and the EPPO's 2025 operational data illustrate both the practical significance and the constitutional limits of this model. The article concludes that European criminal-law integration has created genuine but functionally confined supranational criminal power rather than a unified European criminal justice system.*

Keywords: *European criminal law; criminal-law integration; mutual recognition; mutual trust; ius puniendi; European Public Prosecutor's Office (EPPO); supranational criminal power; fundamental rights*

Introduction

1.1. Significance of the topic

European criminal-law integration refers to the gradual development of criminal-law cooperation, legal approximation and institution-building among the Member States of the European Union (EU). The starting point of this development was classical inter-State mutual legal assistance in criminal matters: two sovereign States assisted each other in a specific criminal proceeding through diplomatic and political channels. The fundamental objective of this model was to prevent cross-border crime and the mobility of offenders from creating gaps in criminal accountability. An equally important feature, however, was that States derived cooperation from the principle of sovereignty. Ultimately, extradition and mutual legal assistance in criminal matters were decided at ministerial level rather than in the courtroom.

The original treaty framework of the European Community (1957) did not provide a general competence to legislate in criminal matters. Consequently, cooperation in criminal matters remained primarily intergovernmental

for a considerable period. As integration progressed, the Member States gradually "juridified" and depoliticised part of their cooperation. The former model of inter-State assistance, which allowed broad discretion, was increasingly replaced by direct contacts between competent authorities, predetermined conditions, standard forms, deadlines and judicial control. The normative basis of this development became the principle of mutual recognition, according to which the participating States, as a general rule, recognise and enforce certain criminal-law decisions adopted by one another. This development gave rise to new institutional and doctrinal solutions. Thus, the European arrest warrant and the surrender system replaced the former extradition model, while the European Investigation Order replaced classical mutual legal assistance. Today, these matters form part of a unified EU policy: the policy of establishing an "area of freedom, security and justice".

The most advanced institutional example of this process is the European Public Prosecutor's Office (EPPO). The EPPO is a prosecutorial body established through enhanced cooperation by certain EU Member States. Its task is to investigate and prosecute certain offences affecting the financial interests of the EU, including money laundering, fraud and corruption, before national courts. It is not a general European prosecution service and does not replace the criminal-justice systems of the Member States. Nevertheless, its establishment demonstrates that European integration is capable of developing functionally integrated forms of law enforcement beyond mere inter-State cooperation (Karsai 2026, EPPO study).

1.2. Methodology and structure

The study is based on doctrinal and institutional analysis. It draws on the author's earlier conceptual work concerning European criminal law, the EU's ius puniendi and the principles of European criminal law (Karsai 2015; Karsai 2022), as well as on the findings of a more recent analysis of the EPPO (Karsai 2026, EPPO study).

Theoretical Framework

2.1. The dual meaning of "European criminal law"

The term "European criminal law" has a dual meaning. In the broad sense, it is an umbrella concept covering the criminal-law phenomena associated with European integration. It includes cooperation between the Member States in criminal matters, criminal-law approximation, the role of EU institutions, fundamental-rights protection, and the interaction between national criminal law and EU law. Initially, the concept functioned primarily as a scholarly label for describing a rapidly developing and heterogeneous field (Ambos 2018; Klip 2021; Karsai-Wörner 2023). In the narrow sense, European criminal law refers to EU law containing criminal-law provisions adopted on the basis of the authorisation provided by the Treaty on the Functioning of the European Union (TFEU), as well as the application of that law. The TFEU is one of the founding treaties of the EU. It determines the areas in which the EU may adopt binding legal acts and the limits within which it may do so. The narrow concept includes, in particular, EU rules concerning criminal-law approximation, judicial cooperation in criminal matters and the protection of the EU's financial interests [TFEU Arts. 82(1)-(2), 83(1)-(2), 325(1)-(4)]. In my view, European criminal law is an autonomous, but incomplete, area of law that is not independent of the national systems (Karsai 2015; Karsai 2022). It is autonomous because it has its own legal bases, institutions, principles and interpretative framework. It is incomplete

because, as a general rule, the EU does not comprehensively define criminal offences, operate a general European criminal court system or enforce criminal penalties. National criminal justice therefore remains an indispensable intermediary and instrument for implementing EU objectives.

2.2. The concept and dimensions of the EU's ius puniendi

The ius puniendi is the power to punish: the right of a public authority or political community to determine which forms of conduct are punishable, which sanctions may be imposed and which institutions may act in relation to criminal responsibility. The EU does not possess a general and comprehensive power to punish. Nevertheless, a partial or "fragmented" EU ius puniendi exists because the Member States have transferred limited criminal-law powers to the EU in specific areas (Karsai 2015).

Three dimensions of this partial criminal power may be distinguished. In its normative dimension, the EU may establish minimum rules concerning the definition of criminal offences and sanctions in certain areas and regulate judicial cooperation in criminal matters [TFEU Arts. 82(1)-(2), 83(1)-(2)]. Article 325 TFEU provides a basis for effective action against fraud and other unlawful activities affecting the EU's financial interests [TFEU Arts. 325(1)-(4)]. In its interpretative dimension, the primacy and uniform interpretation of EU law, together with the case law of the Court of Justice of the European Union (CJEU), influence the application of national criminal law. In its institutional dimension, Article 86 TFEU enables the establishment of the EPPO for the prosecution of offences affecting the EU's financial interests. This partial nature is subject to important limitations. Under the principle of conferral, the EU may exercise only those powers that the Member States have conferred on it in the founding treaties. The principle of subsidiarity requires EU action only where the objectives cannot be sufficiently achieved by the Member States acting independently. The principle of proportionality prohibits intervention that goes beyond what is necessary. These limitations are complemented by legality in criminal matters, culpability-based responsibility and the protection of fundamental rights (Kettunen 2020; Mitsilegas 2022).

2.3. The multi-level structure of European criminal law

The EU legal level consists of the founding treaties, EU regulations and directives, and the interpretation of EU law by the CJEU. A directive is an EU legal act that requires a Member State to achieve a specified result but generally requires national legislation for its implementation. A regulation, by contrast, is in principle directly applicable in all Member States to which it is addressed. The EPPO Regulation therefore directly establishes the basic organisational and procedural framework of the EPPO. At the national level, criminal codes, procedural rules, prosecution services, investigative authorities and courts of the Member States continue to conduct the majority of criminal justice activities. EU law frequently operates through these national systems. Harmonised national law - that is, national criminal law amended in accordance with the objectives of EU directives - is closely connected with European criminal law, but is not doctrinally identical to it: it remains part of the legal order of the relevant Member State.

The Charter of Fundamental Rights of the European Union is also part of this multi-level

structure. It binds the EU institutions and the Member States when they implement EU law. The European Convention on Human Rights (ECHR) and the case law of the European Court of Human Rights are also significant. Although the Convention belongs to a legal system outside the EU, all EU Member States are parties to it, and its protective framework therefore applies within the EU as well. The interaction between EU and broader European human-rights standards is particularly important for interpreting safeguards in criminal proceedings, including the right to a fair trial and the requirements of judicial control.

The Dual System of Classical and Sui Generis Principles

The operation of European criminal law is characterised by a dual normative framework. On the one hand, the classical principles of criminal law apply: legality, culpability-based responsibility, proportionality, subsidiarity and fundamental-rights safeguards. Their primary function is to limit the exercise of criminal power and protect individual freedom. These principles do not lose their significance merely because criminal-law enforcement partly serves EU objectives.

On the other hand, integration generates specific sui generis principles. These include European territoriality; mutual recognition and its legitimising foundation, mutual trust; as well as coherence, the locus/forum regit actum principle and assimilation. The locus/forum regit actum principle regulates the relationship between the law of the place where an act is carried out and the law of the forum conducting the proceedings in cross-border cases (Karsai 2019). The principle of assimilation, in simplified terms, requires EU interests and official acts originating from other Member States to be treated within the national system with an appropriate degree of seriousness, comparable to that applied in similar domestic cases. The function of these sui generis principles is not directly to limit criminal power, but to organise and operate the integration process.

The proposition that European criminal law is subject to a dual normative framework therefore means that European criminal-law mechanisms must simultaneously ensure the effectiveness of integration and respect the classical rule-of-law limitations on criminal power. Neither requirement may automatically override the other.

3.1. European territoriality and functional integration

European territoriality expresses the integrationist idea that, in certain areas, the justice systems of the participating States should not operate merely as separate national spaces but as a common legal area. This does not eliminate State borders, national procedural laws or national institutions. It does mean, however, that in order to achieve certain EU objectives, the legal significance of borders is reduced and cooperation between authorities may assume a form resembling internal administrative cooperation. The EPPO elevates this idea to the institutional level. It may therefore be argued that the EPPO is not a classical inter-State mutual legal assistance arrangement, but a common investigative area operating across the territories of several participating States. At the same time, this area does not operate under a single State criminal-procedure code. A substantial part of the execution of investigative measures continues to take place under national law and through national prosecutors, authorities and courts.

The EPPO is therefore a strong, but hybrid and limited, model of functional integration.

3.2. Mutual recognition as the operating principle of integration

During the second stage of development, the centre of gravity of criminal-law cooperation shifted from inter-State mutual legal assistance to mutual recognition. Its essence is that a decision adopted by the judicial authorities of one Member State is, as a general rule, recognised and enforced by the other Member States without the case having to be reassessed in its entirety. Under the current treaty framework, Article 82 TFEU expressly identifies the mutual recognition of judgments and judicial decisions as the basis of judicial cooperation in criminal matters. At the same time, the provision links mutual recognition to the approximation of national laws and to minimum procedural rules [TFEU Arts. 82(1)-(2)].The first and most significant example of mutual recognition is the European arrest warrant. Council Framework Decision 2002/584/JHA replaced the traditional extradition system with a system of surrender between judicial authorities. Its purpose is to ensure that an arrest warrant issued by the judicial authority of the issuing Member State is enforced by the authorities of the executing Member State through a simplified and accelerated procedure. The European arrest warrant represented a qualitative change because it replaced the former diplomatic and intergovernmental extradition model with direct cooperation between the judicial authorities of the Member States. In relation to specified categories of serious offences, the executing State may not verify the existence of dual criminality where the offence satisfies the relevant seriousness threshold in the issuing State. A second example of mutual recognition is the transfer of the enforcement of custodial sentences. Council Framework Decision 2008/909/JHA permits a custodial sentence imposed in one Member State, subject to certain conditions, to be enforced in another Member State, for example in the State of the convicted person's nationality or residence. Mutual recognition thus extends not only to procedural coercive measures but also to the enforcement of final criminal judgments.

Mutual recognition represents a specific compromise within European criminal-law integration. It does not abolish the national criminal-law systems; instead, it places their decisions within a common enforcement area. Its operation therefore depends on mutual trust in the justice systems of the Member States. That trust is rebuttable rather than blind: the CJEU has required executing authorities to postpone or, where appropriate, refuse cooperation when concrete and individualised fundamental-rights risks are established (Joined Cases C-404/15 and C-659/15 PPU, Aranyosi and Căldăraru; Case C-216/18 PPU, LM; Mitsilegas 2022).

Criminal-Law Minimum Harmonisation and the EU's Ius Puniendi

The third stage of development is connected with the gradual formation of the EU's legislative competence in criminal matters. The Treaty of Lisbon (2007) established a clearer legal basis for criminal-law approximation. It strengthened the role of the European Parliament, expanded the jurisdiction of the CJEU and made judicial cooperation in criminal matters a regular component of EU policies.

Under Article 83(1) TFEU, the European Parliament and the Council may establish, by means of directives, minimum rules concerning the definition of criminal offences

and sanctions. This competence extends only to specified areas of particularly serious crime with a cross-border dimension, including terrorism, trafficking in human beings, illicit drug trafficking, money laundering, corruption, computer crime and organised crime. Article 83(2) TFEU provides a broader but still functional legal basis. Under this provision, criminal-law approximation may be undertaken where it is essential to ensure the effective implementation of a harmonised EU policy. Examples of minimum harmonisation include EU action against trafficking in human beings and the counterfeiting of the euro. Through several framework decisions, the Member States approximated the definitions of corruption, participation in a criminal organisation, money laundering and other serious offences. These legal instruments did not create a uniform EU Criminal Code, but they established common conceptual and sanctioning minimum standards. The PIF Directive, namely Directive (EU) 2017/1371, was a particularly important development. It establishes minimum rules concerning certain forms of fraud, corruption, misappropriation and money laundering affecting the financial interests of the European Union. The Directive requires the Member States to criminalise certain conduct affecting the EU's financial interests and to provide appropriate sanctions in specified cases. It also forms the substantive legal basis of the EPPO's activities, since the EPPO's investigations extend to the offences defined by the Directive.

The resulting model is one of constrained minimum harmonisation. EU legislation defines a common floor, while Member States retain discretion above that floor and remain responsible for prosecution, adjudication and punishment. The legitimacy of this model depends on a demonstrable need for criminalisation at EU level and on coherent drafting across instruments; the Council's 2025 model provisions on EU substantive criminal law are intended to support that coherence.

Procedural and Fundamental-Rights Integration

Mutual recognition can operate legitimately only if the criminal-procedure systems of the Member States share a common and comparable minimum level of fundamental-rights protection. Article 82(2) TFEU therefore permits the adoption of minimum rules concerning the rights of individuals in criminal proceedings, the rights of victims and the mutual admissibility of evidence between the Member States. In 2009, the EU launched an extensive legislative programme that produced six directives establishing minimum standards for persons involved in criminal proceedings. In addition to interpretation and translation, information and access to a lawyer, the measures cover the presumption of innocence and the right to be present at trial, procedural safeguards for children, and legal aid. Each Member State must ensure that these minimum standards are achieved in its national criminal proceedings.

One example is the right to interpretation and translation. Directive 2010/64/EU ensures that, in criminal proceedings and in proceedings for the execution of a European arrest warrant, the person concerned can understand the essential elements of the proceedings and effectively exercise the rights of the defence. The right to information is similarly important. Directive 2012/13/EU establishes minimum requirements concerning the time and manner in which accused persons must be informed of their rights and of the nature and grounds of the accusation against

them. The right of access to a lawyer is regulated by Directive 2013/48/EU, which establishes minimum rules concerning communication with a lawyer, the lawyer's participation in questioning and communication rights during detention.

Fundamental-rights integration has thus become a component of EU criminal law that serves not only the effectiveness of cooperation between States but also the protection of persons participating in criminal proceedings. The approximation of procedural rights has become a legitimising condition of mutual recognition. Within the European criminal-law area, the confidence of judicial authorities cannot be based solely on the formal compliance of national institutions; it is also necessary that the fundamental procedural rights of accused persons are effectively protected.

Institutional Integration and the European Public Prosecutor's Office

The current highest level of development over the past thirty years is limited supranational institutional integration. At this level, the European Union not only harmonises national criminal laws and coordinates the activities of national authorities, but has also established its own prosecutorial structure in a defined area.

Under Article 86 TFEU, the EPPO is responsible for investigating and prosecuting offences affecting the financial interests of the Union and for bringing perpetrators to judgment before the competent courts of the Member States. The EPPO was established by Council Regulation (EU) 2017/1939 within the framework of enhanced cooperation. The Regulation provides a directly applicable legal framework for the institution, meaning that it must also be applied directly by the Member States.

The EPPO is organised as a single office with central and decentralised levels, but it operates through national criminal-procedure systems. The European Delegated Prosecutors responsible for handling a case and those assisting with the execution of investigative measures act within the framework of the same EU organisation (so-called double-hat position). Its cross-border investigations therefore test the boundary between supranational direction and territorial judicial control. In Case C-281/22, G.K. and Others (Parquet européen), the CJEU allocated review of the justification and adoption of an assigned measure to the Member State of the handling European Delegated Prosecutor, while review in the assisting prosecutor's Member State is generally confined to enforcement; intrusive measures must nevertheless be subject to prior judicial review capable of protecting Charter rights (Ligeti 2024).

Outlook on the operation of the EPPO in 2025

Key indicator as at 31 December 2025	Value
Ongoing investigations	3,602
Estimated damage in ongoing investigations	More than EUR 67.27 billion
New investigations opened in 2025	2,030

Key indicator as at 31 December 2025	Value
Indictments	275
Share of active investigations with a cross-border dimension	27%
Value of judicial freezing orders	EUR 1.13 billion
Assets actually frozen	EUR 288.93 million

Source: EPPO Annual Report 2025, pp. 7-9.

Among the ongoing investigations, non-procurement expenditure fraud accounted for 1,820 cases, VAT and customs fraud for 981 cases, procurement expenditure fraud for 648 cases, while money laundering and cases linked to organised crime were also particularly significant. The estimated damage associated with revenue fraud amounted to EUR 45.01 billion, representing more than 67% of the total estimated damage (EPPO Annual Report 2025, pp. 7-9).

The 2025 figures make the institutional development visible, but they do not by themselves establish the EPPO's effectiveness or legitimacy. Those assessments also require information about case duration, judicial outcomes, asset recovery, procedural-rights protection and the consistency of national judicial review. The EPPO's performance therefore remains inseparable from its coordination with national authorities and courts and from effective accountability for its operational acts (Karsai 2026; Öberg 2025).

7. Comparative and Practical Outlook

The EPPO is particularly relevant as a case study for analysing prosecutorial independence, the division of responsibilities between central and decentralised authorities, procedural safeguards, judicial review, cross-border evidence gathering and the investigation of financial crime. Its significance does not lie in providing a ready-made institutional model for other legal systems. Rather, it demonstrates the need to balance effective enforcement, respect for national competences and the protection of fundamental rights when criminal proceedings extend across jurisdictions.

The EPPO's external dimension also gives the subject practical importance beyond the participating EU Member States. Under Article 104 of Regulation (EU) 2017/1939, applicable international agreements and other lawful cooperation instruments, the EPPO may cooperate, within its competence, with the authorities of third countries. Cooperation with Uzbek authorities would therefore require an applicable legal basis and compliance with the relevant domestic procedures; the Regulation does not itself create an automatic cooperation channel with every third country (Karsai 2019; Giuffrida 2023).

From a training and professional-development perspective, the subject can support comparative discussion among judges, prosecutors, investigators and other legal professionals concerning financial investigations, corruption and fraud, cross-border evidence, institutional coordination and the practical protection of procedural rights. The comparative value of the EPPO model lies

precisely in allowing these questions to be examined without presupposing that one institutional solution should be transferred unchanged to another legal system.

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

CRIMINAL LIABILITY OF OFFICIALS OF NON-GOVERNMENTAL COMMERCIAL ORGANIZATIONS: PROBLEMS OF THEORY AND PRACTICE

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Abstract. *This article provides a scientific-theoretical and practical analysis of crimes related to the abuse of official position by officials working in non-governmental commercial organizations and the legal grounds for their liability. The study examines the specific criteria of the concept of an "official" in the non-governmental sector, in particular, the content of organizational-managerial and administrative-economic functions. It also considers the problems arising in the application of Articles 192⁹ and 192¹¹ of the Criminal Code of the Republic of Uzbekistan, the determination of the amount of damage, and the procedural features of initiating criminal proceedings. The article puts forward proposals aimed at increasing the effectiveness of combating corruption in the non-governmental sector and filling gaps in legislation.*

Keywords: *non-governmental commercial organization, official, criminal liability, abuse of authority, commercial bribery, organizational-managerial function, economic crimes.*

The circumstances contributing to the commission of crimes by employees of private security and detective firms include the following: a) criminal penetration into private security and detective agencies due to the external conditions under which the non-governmental law-enforcement sector emerged and developed; b) the inadequacy of the legislative framework regulating the activities of private security and detective firms; c) shortcomings in the efforts of law-enforcement agencies to detect, investigate, and solve crimes committed by employees of private security and detective firms; d) the latent nature of crimes in the field of security and detective activities; d) an ineffective system for screening and selecting employees for work in private detective and security firms; e) shortcomings in the training and instruction of employees of private security and detective firms.[1]

According to S. Gulyamov, the concept of "official" in Section Eight of the Criminal Code of the Republic of Uzbekistan should be amended. In this regard, it is necessary to clearly define not only persons exercising traditional management, but also persons exercising control over digital ecosystems, platforms, and crypto-assets as officials of non-governmental organizations.[2]

The general object of abuse of authority in commercial or other organizations may be defined as social relations in the economic sphere, forms of ownership, economic activity, and the normal functioning of commercial and other organizations. In defining this object, the author proceeds from the view that social relations regulating official activities have an economic meaning, because damage to the economy, even if not directly, is caused by disrupting the normal functioning of the management apparatus of participants in

economic activities, with such activity (entrepreneurship) being their principal legitimate objective.[3]

The subjective aspect of the crime, in addition to direct and indirect intent, is characterized by a specific purpose — obtaining benefits and advantages for oneself or others (relatives, close persons, business partners, etc.) or causing harm to others.

Motive is not a constructive element of the crime; therefore, it may differ depending on the commission of the crime. However, in all cases, the motive is part of the subject matter of proof in all categories of cases and must be established. Traditionally, motives characterizing abuse of authority include selfish motives and other personal interests.

Therefore, if a legal entity benefits as a result of abuse of its powers, a claim may be brought against the person who committed the crime or against the organization in whose interests the socially dangerous act was committed.

A key factor in subsequently ensuring effective compensation for damage is determining the financial condition of the defendants at the pre-trial stage in order to take urgent measures to secure the claim. On the one hand, this is because difficulties may arise at the enforcement stage due to individuals lacking the property or funds necessary to comply with a court decision, especially when substantial property damage has been caused. On the other hand, when bringing claims against legal entities, active methods may also be used to avoid enforcement of court orders through liquidation, reorganization, bankruptcy of the organization, and other means.[4]

Proving damage caused to property in criminal cases does not mean that the court will necessarily order the defendant to recover the funds. For example, claims may be rejected because the limitation period has expired. In addition, as noted above, if the damage caused to an organization by its employees is expressed in lost profits, bringing a claim is considered inappropriate due to the absence of legal grounds for recovery. In some cases, proceedings were terminated in connection with the introduction of a debt restructuring procedure for the guilty person and their declaration of insolvency (bankruptcy).

As a rule, the doctrine of criminal law does not contain a general definition of this concept, and the nature of substantial harm is disclosed through a list of types of socially dangerous consequences in which it may be expressed.

According to A. Ya. Asnis, a substantial violation of the rights and legitimate interests of citizens and organizations consists, “first, in all cases without exception, in the violation of the constitutional rights, freedoms, and interests of citizens or organizations enshrined in the Constitution of the Russian Federation; and, second, in other cases, it is determined on the basis of a subjective criterion consisting in the assessment by the victim, rather than by a law-enforcement agency, of the violation and the damage caused as substantial or insignificant.”[5]

This concerns the criminal liability of persons performing managerial functions in commercial and other organizations for abusing their powers and failing to perform, or improperly performing, their official duties, which results in a substantial violation of the rights and legitimate interests of individuals or organizations, or of the legally protected interests of society or the state. The issue of classifying the actions of such persons when they forge official documents within the scope

of their powers in connection with their official duties has also not been resolved.[6]

The rule concerning abuse of authority or official powers may be considered separate from the general rule on abuse of official position, since the concept of "official position" is broader than the concept of "official powers."

There are known cases in which the negligent attitude of persons performing managerial functions in commercial organizations, including state or municipal organizations, has resulted in multimillion-dollar damage to state or municipal property or serious violations of the rights and legitimate interests of citizens, while the guilty persons have been subjected only to disciplinary liability.

According to M. H. Rustamboyev, for acts committed in non-governmental commercial organizations that are not highly socially dangerous and where the amount of damage is not particularly large (for example, less than 30 times the Basic Calculated Value), instead of criminal liability, administrative penalties should be established by introducing a special article into the Code of Administrative Responsibility.[7]

According to B. Kh. Po'latov, under Article 192^{11} of the Criminal Code, if the damage has been caused solely to the private organization itself, it should be strengthened as a mandatory condition for initiating criminal proceedings that an application be submitted by the owner (shareholders). However, if the act causes harm to consumer rights or the environment, the mechanism for initiating proceedings by the prosecutor in a public manner should be retained.[8]

Conclusion

In conclusion, it can be stated that measures of liability for officials of non-profit organizations should be strengthened. First, with respect to officials of non-governmental organizations, instead of imprisonment, greater use should be made of penalties consisting of compensation for the damage in several multiples of its amount (an economic fine) and deprivation of the right to hold managerial positions for a certain period.

Second, under Article 192^{11} of the Criminal Code, if the damage has been caused solely to the private organization itself, the requirement that an application by the owner (shareholders) be a mandatory condition for initiating criminal proceedings should be strengthened. However, if the act causes harm to consumer rights or the environment, the mechanism for initiating proceedings by the prosecutor in a public manner should be retained.

Third, the laws "On Protection of the Rights of Joint-Stock Companies and Shareholders" and "On Limited Liability and Additional Liability Companies" should be supplemented with a provision requiring the mandatory establishment of an anti-corruption compliance system in large commercial organizations.

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

DISTINGUISHING OFFENCES AGAINST SEXUAL FREEDOM FROM RELATED OFFENCES IN UZBEKISTAN

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Abstract. *The article examines the criteria for distinguishing offences against sexual freedom, coercion through dependence and related offences involving minors under Uzbek criminal law. It develops a sequence for assessing the means of obtaining sexual participation, the ages of the persons involved and the completion of the offence. Doctrinal analysis, systematic interpretation and comparison of scholarship are applied to legislation and Supreme Court guidance. Reported judicial examples are examined with attention to the limitations of secondary accounts. The analysis distinguishes dependence from its coercive exploitation and the provision of benefits from threats to a dependent person's protected interests. It clarifies the role of age thresholds and helplessness, including the offender's age and the law applicable to each episode. Supplementary judicial guidance is proposed to identify the facts requiring proof without expanding the statutory methods of commission. The findings provide criteria for criminal investigations, judicial classification and further legal research.*

Keywords: *criminal law; sexual freedom; legal classification; coercion; dependence; helplessness; age thresholds; material benefits*

Introduction

Distinguishing offences against sexual freedom requires assessment of the act, the means used to obtain participation and the victim's age. Under Uzbek criminal law, violence, threats of physical violence, exploitation of helplessness and coercion through dependence have different legal consequences. A sexual relationship, financial support or formal subordination alone does not identify the applicable offence.

S. S. Niyozova relates sexual freedom to the individual's ability to determine participation in sexual relations and examines the additional interests protected where children are involved [1, pp. 13-14]. M. Kh. Rustambaev distinguishes exploitation of dependence from violence and the provision of benefits, and examines voluntariness at the boundary of Articles 118-119 and Article 128 [2, pp. 195-198, 222-223]. These propositions require reassessment after the amendments of 2023, particularly regarding the victim's sex, the structure of Article 121 and the significance of knowledge of age.

International research cautions against treating consent as self-explanatory. Muehlenhard and colleagues review difficulties in defining consent and how students negotiate it [3, pp. 457-487]. Darden and colleagues distinguish desire, assertiveness and reported consent, showing that participation may coexist with low desire [4, pp. 220-235]. These findings identify questions for assessing evidence; they do not establish the elements of an offence under Uzbek law.

The article examines the boundaries between Articles 118, 119, 121, 128 and 128[1], with reference to Article 129 where the act requires that distinction. It aims to formulate a consistent sequence of classification and

identify matters requiring supplementary judicial guidance. Articles 118, 119 and 121 belong to Chapter IV on offences against sexual freedom; Articles 128, 128[1] and 129 appear in Chapter V on offences against the family, youth and morality. Their comparison does not imply identical immediate objects of protection.

Materials and Methods

The study applies doctrinal analysis, systematic interpretation and a focused comparison of legal scholarship. The normative basis is the Criminal Code of the Republic of Uzbekistan, approved by the Law of 22 September 1994 No. 2012-XII, and the Law of 11 April 2023 No. LRU-829 "On amendments and additions to certain legislative acts of the Republic of Uzbekistan in connection with further improvement of the system for reliable protection of the rights, freedoms and legitimate interests of women and children". Judicial interpretation is examined through Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan of 29 October 2010 No. 13 "On judicial practice in cases of rape and satisfaction of sexual needs in an unnatural form", including the amendments introduced by Resolutions No. 30 of 20 November 2023 and No. 39 of 16 December 2024. The legal texts were checked against the national legislation database on 10 September 2026.

The provisions were compared by the protected interest, objective elements, the offender's characteristics and completion. Articles 9, 13, 17, 25 and 33 were examined for culpability, temporal application, the age of responsibility, attempt and multiple offences. "Satisfaction of sexual needs in an unnatural form" translates the statutory expression.

Literature was selected for its treatment of dependence, coercion, consent or age. Cases reported in dissertations were examined as secondary accounts, preserving their factual and chronological limitations. They are not an independently collected or representative sample. International studies provide conceptual comparisons; their prevalence estimates and legal classifications are not transferred to Uzbekistan. The results are interpretative propositions and proposals for judicial guidance.

Results

Physical violence and exploitation of dependence

Articles 118 and 119 distinguish the form of the act while sharing alternative means of commission: violence, threats or exploitation of the victim's helpless state. Paragraphs 2-5 of Resolution No. 13 explain that the relevant threat conveys a real intention to use physical violence to overcome resistance. Violence or threats must serve as a means of obtaining the act and may be directed at the victim or at the other persons specified in paragraph 5. A threat made afterwards to prevent disclosure requires a separate assessment and cannot retrospectively supply a missing means of commission.

Article 121 concerns a different mechanism. The offender uses an existing employment-related, financial or other dependence to compel intercourse or satisfaction of sexual needs in an unnatural form. Its current wording protects a person of either sex. Paragraph 7[1] of Resolution No. 13 already distinguishes this coercion from the psychological violence involved in Articles 118 and 119: the threatened harm concerns property or other personal rights and is connected with the offender's power arising from the relationship of dependence. Consequently, a proposal merely to introduce

this basic distinction would duplicate existing guidance. The remaining question is how that power and its coercive use should be established in a particular case.

Dependence is relevant only when it provides the means of coercion. Rustambaev identifies employment subordination, reliance on maintenance or housing, and situations in which a significant decision rests with another person [2, pp. 196-198]. Dyachenko's account of the historical case against K. likewise distinguishes the existence of dependence from its use to obtain sexual relations [5, pp. 156-157]. That case illustrates a doctrinal distinction; it does not constitute authority for applying the present Uzbek Code. Friendship, kinship, cohabitation or emotional attachment cannot automatically establish the dependence required by Article 121. Conversely, the absence of a formal employment relationship does not exclude a factually established dependence.

The evidence must identify the interest controlled by the accused, the adverse consequence communicated to the victim, and the link between that consequence and the demand for sexual participation. Threatened dismissal, deprivation of essential support, loss of housing or obstruction of education may be relevant where the accused actually has the corresponding power. A demand need not take a particular verbal form: its conditional and coercive meaning may be established from messages, conduct and the surrounding circumstances. The victim's account must be assessed together with the available evidence, without treating either formal subordination or a feeling of obligation as conclusive by itself.

Poddubnaya distinguishes threats of physical violence from pressure directed at other interests under Russian law [6, pp. 172-173]. This comparison helps differentiate the interests threatened. Blackmail or threats to property must nevertheless be assessed under Uzbek statutory elements, including proof of the dependence required by Article 121.

An employer, teacher or cohabiting partner may use different means on different occasions. Physical violence or its threatened use to obtain the act engages the inquiry under Article 118 or 119 even where dependence exists. Pressure through control of employment, maintenance or another significant interest concerns Article 121. The content and function of the pressure determine the boundary.

The completion of the offence must be considered separately. On the construction of Article 121(1), the offence is completed when coercive conduct using dependence is carried out; obtaining the demanded sexual act is unnecessary. Part 2 concerns grave consequences, whereas part 3 concerns coercion accompanied by the specified sexual act. The circumstances in part 4 qualify the conduct described in part 3, including its commission against a person under eighteen. Earlier commentary assigning attainment of the offender's purpose to part 2 must therefore be read in its historical context. For Articles 118 and 119, paragraph 8 of Resolution No. 13 identifies completion with the commencement of the relevant act; an uncompleted assault requires assessment under the rules on attempt, including Article 25 of the Code.

Age and the legal significance of consent

Age performs different functions in the provisions under examination. Article 128 criminalises the specified sexual acts with a person under sixteen. Paragraph 7 of Resolution No. 13 confines its application to

acts committed without violence or threats, with the agreement of a victim who understood their nature and significance. The same paragraph expressly treats children under fourteen as helpless and directs classification under Article 118(4) or Article 119(4). Read together, these explanations place consensual conduct within Article 128 in the fourteen-to-under-sixteen age group. An appearance of agreement does not make such conduct lawful; it distinguishes the applicable offence.

The distinction also explains why the older doctrine requires qualification. Rustambaev's 2018 account discusses individual assessment of a child's ability to understand the act [2, pp. 222-223]. Stepanova argues that a young child's agreement cannot be treated as legally effective where the child lacks that understanding [7, p. 189]. The latter is a comparative doctrinal position, not a source of an age threshold for Uzbekistan. Under the current Plenum guidance, the under-fourteen category is expressly identified. N. G. Jumaniyozov discusses the resulting boundary with Article 128 and proposes adjusting its wording to refer to persons aged fourteen to under sixteen [8, pp. 67-68]. That proposal illustrates the difference between the broad statutory wording and its interpretation; it should not be presented as an amendment already enacted.

Paragraph 6 of Resolution No. 13 contains an express exception for victims under fourteen to its requirement that the offender be aware of helplessness. The current age-related wording of Articles 118 and 119 also omits the former qualification that the age be known to the offender. An analysis of current law must therefore distinguish the Plenum's express rule from earlier formulations in the literature. The general requirement of culpability under Article 9 remains relevant to the establishment of the offence; its relationship with the special age-related wording requires careful interpretation and should not be concealed by reproducing the superseded knowledge requirement.

For victims aged fourteen to under sixteen, the absence of physical resistance is insufficient to settle the classification. The inquiry concerns the means used and the victim's actual ability to understand the act or protect themselves. Evidence of coercion through dependence must also be considered: an apparent agreement obtained by such coercion should not be treated as voluntary merely because no physical violence occurred. Psychological or psychiatric expertise may clarify matters requiring specialist knowledge, while the legal classification remains for the competent authority. Findings about capacity must concern the victim and the relevant episode, rather than a general assumption about all persons of the same age.

The age of the offender is an additional, distinct condition. Article 17 establishes responsibility from fourteen for Articles 118 and 119; the general threshold of sixteen applies to Articles 121 and 128. Article 128^1 is among the provisions for which the offender must have reached eighteen. The victim's age of sixteen to under eighteen is thus insufficient by itself to establish Article 128^1. Nor does reaching sixteen render every sexual interaction lawful: it removes the age element of Article 128, while other applicable prohibitions and circumstances retain their significance.

Both the date of birth and the date of each alleged act must therefore be established. A description such as “minor” or “under

sixteen" may conceal a distinction decisive for the applicable provision. Where conduct extends across an age threshold, each episode requires assessment in its temporal setting. Article 13 also requires attention to the version of the criminal law applicable when the act occurred. The year in which a case was heard cannot substitute for the date of the conduct, and a later increase in criminal liability cannot be applied retrospectively merely because the trial took place after the amendment.

Benefits and coercion through dependence

The provision of money, property or another benefit does not establish the same mechanism as a threat to withdraw essential support. Article 128(2) covers the specified acts with a person under sixteen through the provision of material valuables or property-related or other benefits. Article 128[1] addresses such conduct with a person aged sixteen to under eighteen, subject to the offender's age requirement. Within the distinction examined here, the benefit operates as the means of obtaining participation. Under Article 121, the legally significant mechanism is coercive use of dependence.

The difference cannot be reduced to whether money changed hands. Providing a gift to obtain participation by a person aged fourteen to under sixteen, without violence, helplessness or coercive use of dependence, engages Article 128, including its applicable qualifying circumstances. Threatening to withhold maintenance, accommodation or another interest on which the victim depends may engage Article 121. Where the conduct described in Article 121(3) is committed against a minor and no grounds for Articles 118 or 119 intervene, paragraph (a) of part 4 must be considered. The under-fourteen rule must be assessed before this branch of the analysis; a general reference to minority cannot override it.

Rustambaev's distinction between worsening a dependent person's position and offering advantages remains useful [2, p. 197]. Nevertheless, neither the label "gift" nor the label "assistance" determines the outcome. The inquiry must establish whether an offer represented an additional benefit or whether the accused used control over an existing essential interest to make refusal materially detrimental. The mere existence of dependence does not exclude Articles 128 or 128[1] if it was not exploited coercively. A rule requiring the complete absence of a dependent relationship would therefore be too broad. Qualifying circumstances concerning family relationships, care or education must be assessed separately under the relevant provision.

Deception also requires attention to the actual means and form of conduct. Paragraph 8 of Resolution No. 13 excludes Articles 118 and 119 where persuasion by deception or similar means occurred without violence, threats or exploitation of helplessness. It does not declare every such act lawful. Depending on age and the act committed, Article 128 or Article 129 may remain relevant. Article 129(2)(a) specifically addresses indecent acts involving deception or abuse of trust. These offences cannot be distinguished solely by the presence of deception: the act described in the disposition must also be identified.

Discussion

The proposed sequence of assessment explains the importance of separating episodes within a continuing relationship. Samoylenko reports case No. 1-183/10 from the Adler District Court, in which a woman described longstanding financial dependence and earlier

psychological pressure, followed by an episode of physical violence and a threat to kill [9, pp. 55-56]. The account supports examination of changing methods within one relationship. Applied comparatively to Uzbek law, the earlier episodes would require proof of coercive exploitation of dependence, while the later episode would require assessment under Article 118 or 119 according to the act committed. The dissertation's description does not replace the evidence needed to establish each constituent element.

Jumaniyozov describes a Kokand case involving conduct in 2022 and a girl born in 2007, while referring to Article 118(4) [8, p. 68]. Those years place her at fourteen or fifteen during 2022 and cannot substantiate the under-fourteen classification. Without the judgment and precise dates, it is impossible to determine whether the discrepancy concerns the reported facts or the legal reference. The secondary account requires verification before any conclusion about judicial error.

Garrido-Macías and colleagues found that tactics of sexual pressure and partner dependence affected participants' attribution of responsibility and assessment of leaving a relationship [10, pp. 53-60]. Depireux and Glowacz examine associations between dimensions of consent and sexual coercion in intimate relationships [11, pp. 2689-2710]. These studies help explain perceptions of conduct; emotional dependence and survey categories must still be distinguished from the elements of Article 121.

Rollero, Moyano and Roccato found associations between attitudes toward establishing consent and attitudes supportive of rape [12, p. 1352]. For legal analysis, the relevant implication is that assumptions about how a partner or a financially supported person ought to behave should not replace examination of the evidence. Darden and colleagues' distinction between desire and reported consent also cautions against treating those concepts as interchangeable [4, pp. 220-235]. A person may participate without desire, while an outward expression of agreement may arise from coercion. Classification requires the particular facts to be tested against the statutory elements, including age and capacity.

The treatment of overlapping conduct needs the same precision. Separately completed episodes involving distinct acts and criminal intentions may raise the issue of multiple offences under Article 33. It does not follow that every interaction containing both dependence and physical violence automatically warrants cumulative classification. Equally, an abstract prohibition on “double assessment” is insufficient to conclude that Article 121 is invariably absorbed. The temporal relationship, independence of the coercive act, subsequent intent and the elements of each offence must be examined. Paragraph 10 of Resolution No. 13 provides guidance on continuing and repeated conduct, but it does not by itself resolve every combination involving Article 121.

The sequence developed here separates the act, the means of obtaining participation, age, the offender's characteristics and completion. It requires an explanation of which constituent element is established by dependence, a benefit or apparent agreement. Supplementary guidance should clarify that connection within the boundaries fixed by the Code.

Conclusion

The boundary between Articles 118-119 and Article 121 turns on the means used in each

episode. For Article 121, both dependence and its coercive use require proof. Completion of the coercive act and commencement of the demanded sexual act must be assessed separately under the current parts of that article.

The ages of the victim and offender must both be established. Apparent agreement cannot override the under-fourteen rule in Resolution No. 13. For persons aged fourteen to under sixteen, capacity and the means used remain decisive. Article 128¹ additionally requires an offender aged eighteen or older. Each episode must be assessed under the temporally applicable law.

It is proposed to supplement paragraph 7¹ of Resolution No. 13 with the following guidance: "In establishing coercion through dependence, courts should identify the property-related or other personal interest controlled by the accused, the adverse consequence connected with refusal, and the use of that consequence to compel sexual participation. Dependence alone, without its coercive use, does not establish Article 121. Where physical violence or a threat of physical violence is used as the means of obtaining the act, Articles 118 or 119 and the rules on completion or attempt shall be assessed irrespective of the existence of dependence."

A further clarification should address benefits: "In distinguishing coercion through dependence from the provision of material valuables or property-related or other benefits, courts should establish whether the accused offered a benefit to obtain participation or exploited dependence by making refusal detrimental to the victim's protected interests. The existence of dependence without its coercive use does not, by itself, exclude Articles 128 or 128¹. The relevant age thresholds, qualifying circumstances and the rule concerning victims under fourteen shall be assessed in every case." These additions would develop the existing guidance by identifying the facts requiring proof, rather than creating new methods of commission beyond the statutory dispositions.

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International Journal of Justice

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

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Abstract. *This article examines the criminal-law qualification, evidentiary standards and asset-recovery consequences of laundering proceeds derived from misappropriation or embezzlement under the law of the Republic of Uzbekistan. The practical problem arises from the intersection of Article 167 and Article 243 of the Criminal Code and from the risk that ordinary disposal or consumption of unlawfully appropriated property may be confused with an autonomous laundering offence. The study applies doctrinal, systemic, comparative-legal and case-analysis methods to national legislation, interpretative guidance of the Supreme Court, FATF standards and the mutual evaluation of Uzbekistan. It argues that cumulative qualification is justified only where the prosecution proves the predicate offence, identifiable criminal proceeds, conduct legally separable from completion of the embezzlement, knowledge of the illicit origin, and an objectively verifiable function of concealment, disguise or legitimisation. Mere possession, direct consumption or a transfer inherent in the predicate offence should not automatically be treated as money laundering. The article proposes a five-element qualification test, a structured evidentiary model for parallel financial investigations, express regulation of self-laundering, differentiated liability under Article 243, value-based recovery and centralised management of restrained assets. These measures are intended to improve legal certainty, proportionality, protection of victims and the practical recovery of criminal property.*

Keywords: *money laundering; misappropriation; embezzlement; criminal qualification; self-laundering; financial investigation; confiscation; asset recovery; Uzbekistan.*

Introduction

Money laundering is not merely the physical movement of illicit funds. In criminal-law terms, it is a transformation of the legal and evidentiary appearance of property: the offender seeks to separate an asset from the offence that generated it and to make subsequent possession, use or transfer appear lawful. The breadth of this concept creates an unavoidable problem of delimitation. If every use of criminal proceeds is treated as laundering, the offence becomes an automatic extension of almost every acquisitive crime; if the definition is too narrow, sophisticated concealment through nominees, fictitious contracts and asset conversion escapes an adequate legal response. Modern scholarship therefore emphasises the need for a legally precise definition that balances effectiveness with the principles of legality and minimum necessary criminalization. [1, 73–94 pp.]

The Criminal Code of the Republic of Uzbekistan, approved by Law No. 2012-XII of 22 September 1994, defines misappropriation or embezzlement in Article 167 as the unlawful taking of another person's property entrusted to or placed under the control of the offender. Article 243 criminalises giving a lawful appearance to the origin of property obtained from criminal activity by transfer, conversion

or exchange, as well as concealing or disguising its true nature, source, location, disposition, movement, rights or ownership. The offence is punishable by imprisonment for five to ten years. The Law of the Republic of Uzbekistan No. 660-II of 26 August 2004 "On Combating Legalisation of Proceeds from Criminal Activity, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction" establishes the preventive and institutional framework for detecting suspicious operations, customer due diligence, internal control and the activity of the specially authorised state body. [2]

The Plenum of the Supreme Court of the Republic of Uzbekistan, in Resolution No. 1 of 11 February 2011 "On Certain Issues of Judicial Practice in Cases Concerning Legalisation of Proceeds from Criminal Activity", as amended by Resolution No. 23 of 10 June 2021, expressly identifies misappropriation or embezzlement as a predicate offence. It also recognises direct and indirect proceeds, income generated from proceeds, converted property, commingled property in the corresponding proportion, electronic money and crypto-assets. The Resolution explains that even one transaction may be sufficient and that the offence may be completed when criminal funds are used for payment, exchanged, transferred or placed into a fictitious transaction. At the same time, it requires courts to distinguish laundering from acquisition or transfer of criminal property where no appearance of lawful ownership is created. [3]

The purpose of this article is to formulate a coherent legal model for: (1) distinguishing disposal of embezzled property from an autonomous laundering act; (2) proving the criminal origin, laundering conduct and subjective element; and (3) aligning victim restitution with confiscation and recovery of remaining criminal assets. The central hypothesis is that cumulative qualification under Articles 167 and 243 is justified only when a post-predicate act has an independent concealment or legitimisation function that causes harm additional to the property harm completed by embezzlement.

Materials and Methods

The research is doctrinal and applied. Its primary materials are Articles 167 and 243 of the Criminal Code, the 2004 AML Law, the Criminal Procedure Code rules on material evidence and confiscation, and Resolution No. 1 of the Plenum of the Supreme Court. The legislation was examined in its current form as of 28 July 2026. The study also uses the FATF Recommendations, as amended in October 2025, particularly Recommendations 3 and 4 on the money-laundering offence, confiscation and provisional measures, together with the 2022 Eurasian Group mutual evaluation of Uzbekistan and the 2023 follow-up report. [4]

Four methods were applied. First, the formal-doctrinal method was used to identify the objective and subjective elements of the two offences and the moment when each is completed. Second, the systemic method examined the interaction of substantive criminal law, criminal procedure, financial monitoring and civil-law transactions. Third, comparative and international-standard analysis assessed the national approach against FATF requirements and contemporary research on professional facilitators, evidence and asset recovery. Professional intermediaries are important because lawful business structures may create ostensible legitimacy, anonymity and insulation for criminal property. Fourth, a case-study method was used to reconstruct recurrent factual patterns reflected in the mutual evaluation of Uzbekistan, including the registration of vehicles

and apartments in the names of third parties and the use of fictitious legal arrangements. [5]

Results

3.1. The legal boundary between embezzlement and laundering

Embezzlement and laundering protect different immediate legal interests. Article 167 protects property relations and the integrity of entrusted control. The offence is completed when the entrusted property is intentionally and unlawfully converted to the offender's or another person's benefit, or dissipated contrary to the owner's interests. Article 243 protects the transparency and lawful functioning of property and financial circulation, as well as the state's capacity to identify criminal assets. Its additional wrong consists in obscuring the criminal source, control or ownership, or in creating a legally credible appearance of legitimate origin.

This distinction requires temporal and functional autonomy. A transaction that is the method by which the offender first obtains or finally converts the entrusted property may remain part of Article 167. For example, an accountant's unauthorised bank instruction transferring organisational funds directly to a controlled account may be the act completing embezzlement. The same transfer should not be counted a second time as laundering merely because money moved through the banking system. By contrast, a later fictitious loan agreement, purchase of real estate in a nominee's name, circular transfer through unrelated companies, fabricated service contract or conversion into another asset may constitute Article 243 where it is designed to alter the apparent source, owner or legal basis of control.

The decisive question is not whether criminal proceeds were used, but what legal and evidentiary function the act performed. The act must objectively make detection, tracing, seizure or proof of criminal ownership more difficult, or create documentation capable of explaining the property as lawfully acquired. This function may be inferred from the use of nominees, false consideration, sham debts, fragmented payments, unexplained corporate intermediaries, backdated documents, rapid conversion, cross-border routing, commingling with legitimate business revenue or deliberate inconsistency between formal and beneficial ownership.

3.2. Self-laundering and cumulative qualification

The 2022 mutual evaluation reports that most identified laundering cases in Uzbekistan involved self-laundering and did not involve complex schemes. Self-laundering occurs when the perpetrator of the predicate offence also performs the laundering conduct. International standards permit its criminalisation where fundamental domestic-law principles allow it. The national provisions do not expressly exclude the predicate offender from liability under Article 243, and practice reflects cumulative charges. Nevertheless, self-laundering creates a heightened risk of double assessment of the same conduct. [6]

Cumulative qualification is justified when two conditions are satisfied. First, embezzlement must already be complete, or at least the laundering act must be legally separable from the conduct constituting unlawful appropriation. Second, the later act must generate a distinct danger by obscuring source, ownership, location or movement, or by manufacturing a lawful legal basis. A perpetrator who simply keeps cash obtained by embezzlement has not necessarily laundered it. A perpetrator who arranges a false sale, deposits the funds as purported business revenue,

records them as repayment of a fictitious loan, or registers acquired assets to relatives for concealment performs an additional offence.

3.3. A five-element qualification test

A cumulative qualification under Articles 167 and 243 should be based on five elements. First, the prosecution must prove misappropriation or embezzlement and identify the property or value generated by it. Second, the alleged object of laundering must be linked directly or indirectly to that predicate offence, including converted property and the proportion of criminal value incorporated into commingled property. Third, the alleged laundering act must be subsequent to, or legally separable from, the conduct that completed the embezzlement. Fourth, the act must perform a laundering function by concealing or disguising the source, ownership, location or movement of the proceeds, or by creating a false lawful basis for possession, use or disposition. Fifth, the accused must know the criminal origin of the property and intentionally participate in the legitimising or concealing operation. Failure to establish any one of these elements should exclude cumulative qualification.

3.4. Evidentiary model for proving laundering of embezzled proceeds

The evidentiary task has three layers: proving the predicate offence, tracing the proceeds, and proving the laundering function and mens rea. A conviction for the predicate offence is strong evidence but should not be treated as the only legally possible basis. The Supreme Court permits reliance on a conviction or, in specified circumstances, a procedural decision terminating the predicate case where the case materials establish the event and elements of that offence. This approach is consistent with the need to prosecute laundering even where the predicate offender is unavailable, deceased, immune or tried separately, but the criminal origin must still be established to the criminal standard of proof. [7]

For Article 167, the evidence should establish entrustment or lawful control, the scope of authority, the owner's rights, the unauthorised disposition and the offender's intent to convert or dissipate property. Relevant materials include employment and agency documents, inventory and accounting records, bank mandates, procurement files, electronic approvals, access logs, audit results, testimony and forensic accounting. The transaction chronology must identify the exact moment when lawful control became unlawful appropriation.

Proof of laundering cannot rest solely on the absence of lawful income. Resolution No. 1 states that unexplained wealth must be considered together with evidence of objective laundering acts. Accordingly, the evidence matrix should combine: (a) financial disparity; (b) transaction structure; (c) false or inconsistent documents; (d) nominee relationships and beneficial ownership; (e) concealment behaviour; (f) communications showing purpose or instructions; (g) professional or technical steps inconsistent with an innocent transaction; and (h) subsequent use of documents to justify ownership or source of funds. The probative force lies in convergence, not in any isolated indicator. [8]

A parallel financial investigation should begin at the opening of an embezzlement case, not after the predicate offence has been fully reconstructed. The 2022 mutual evaluation noted that Uzbekistan's law-enforcement bodies historically prioritised solving predicate offences and lacked a common practice of parallel financial investigations until 2021. Early investigation reduces dissipation risk and permits simultaneous identification of accounts, nominees, related entities, foreign links and

substitute property. It also assists prosecutors in deciding whether Article 243 is supported by an autonomous laundering act rather than added mechanically at the end of the investigation. [9, 67–84 pp.]

3.5. Asset restraint, restitution and confiscation

Uzbek law gives priority to compensation for material damage. Resolution No. 1 provides that property constituting the subject of laundering is confiscated after damage caused by the predicate offence has been compensated, while the lawful part of property must be returned to its owner. This victim-centred priority is justified in embezzlement cases because the proceeds are often identifiable property of a public body, company or individual. Restitution and confiscation, however, should not be treated as alternatives. Restitution restores the victim; confiscation deprives the offender of any residual profit, substitute value or income generated from the proceeds. [10]

The mutual evaluation found that confiscation in Uzbekistan was based solely on criminal-procedural mechanisms, that non-conviction-based confiscation was limited, and that the system concentrated on compensation of damage. It assessed effectiveness for money-laundering investigation/prosecution and confiscation as moderate, while identifying the need to strengthen parallel financial investigations and recovery of assets located abroad. The report also described a case in which approximately USD 8.5 million in budget funds were stolen and laundered through around 110 vehicles, 40 apartments and other real estate registered fictitiously to third persons. The pattern demonstrates why beneficial-ownership evidence, rapid restraint and management of numerous assets are central, not ancillary, to the criminal case. [11, 67–97 pp.]

A complete recovery regime should include property-based confiscation, value-based confiscation where direct proceeds are unavailable, confiscation of income and benefits, substitute-asset restraint, and carefully regulated non-conviction-based proceedings for death, flight, absence or other legally defined obstacles to conviction. Such mechanisms require notice, judicial review, proportionality, protection of bona fide third parties and a clear burden-of-proof framework. Centralised asset management is also necessary because vehicles, businesses and real estate can lose value or generate costs during lengthy proceedings. Comparative research identifies a specialised or centralised asset-recovery management framework as a practical factor in improving outcomes. [12, 421–441 pp.]

Discussion

4.1. Risks of overcriminalisation and under-enforcement

The present national framework contains both expansive and limiting propositions. The expansive proposition is that one transaction, including payment for goods, may complete laundering. The limiting proposition is that transfer of criminal property without giving an appearance of lawful ownership is not laundering. Judicial consistency depends on reconciling these propositions through the concept of function. A purchase made openly in the offender's own name for immediate consumption may merely use proceeds; a purchase documented as the nominee's lawful acquisition or as an investment funded by fabricated income may legitimise or conceal them. The legal form “purchase” is therefore not determinative. This functional reading is also

supported in Uzbekistan-focused doctrine. [13, 31–37 pp.]

4.2. Legislative and interpretative improvements

First, Article 243 should be differentiated by seriousness. At present, the article establishes a single imprisonment range of five to ten years and no statutory value threshold. The Supreme Court directs courts to use the Criminal Code's concepts of significant, large and especially large amounts when individualising punishment. This judicial solution cannot fully replace a legislative structure. A basic offence should cover laundering without aggravating circumstances and permit proportionate alternatives where appropriate; aggravated parts should address large or especially large value, repetition, organised groups, abuse of official or professional position, cross-border structures, virtual assets and the use of legal persons or nominees.

Second, the law or authoritative guidance should expressly regulate self-laundering. A proposed rule is: the perpetrator of the predicate offence is liable for laundering only for acts committed after or independently from obtaining the proceeds, where those acts are directed at concealing or disguising criminal origin, ownership, location or movement, or at creating a false lawful basis for possession, use or disposition. Mere acquisition, possession, consumption or transfer inherent in completion of the predicate offence should not constitute a separate offence.

Third, the charging standard should require transaction particularisation. An indictment under Article 243 should identify: the predicate offence; the specific proceeds or traced value; each alleged laundering act; the date and counterparties; the alleged concealment or legitimisation mechanism; the accused's knowledge and purpose; and the asset-recovery measure sought. This would improve the defendant's right to know the accusation and enable the court to test whether the same facts are being counted twice.

Fourth, criminal procedure should institutionalise parallel financial investigation. A written financial-investigation plan should be mandatory for serious embezzlement involving public funds, official position, organised groups, large or especially large amounts, cross-border payments or legal persons. The plan should allocate responsibility for bank and registry requests, beneficial-ownership analysis, digital evidence, foreign cooperation, restraint deadlines, valuation and asset management. Research on laundering techniques indicates that offenders choose methods according to accessibility, perceived risk, profitability and technical capacity; investigation plans should therefore be typology-sensitive rather than uniform. [14]

Fifth, legislation should expand value-based and non-conviction-based confiscation in accordance with the revised FATF asset-recovery standards, while preserving judicial safeguards. The purpose is not to lower criminal proof for conviction but to prevent an offender from defeating recovery by converting, transferring, consuming or locating the property abroad. Where direct proceeds cannot be found, a court should be able to order confiscation of equivalent value from the convicted person's assets. Non-conviction-based proceedings should be available only in defined situations and should provide effective notice, an opportunity to contest, reasoned judicial decisions and protection for bona fide owners. [15]

4.3. Practical application of the proposed model

Consider four simplified situations. In the first, a cashier withdraws entrusted cash and uses it for ordinary daily expenses. Article 167 may be complete, but absent a transaction designed to conceal or legitimise origin, Article 243 should not be automatic. In the second, the cashier deposits the cash into a controlled company's account as fictitious sales revenue and later withdraws it as dividends. The accounting entry and corporate payment provide an apparent lawful source; cumulative qualification is justified. In the third, an official transfers budget funds to a sham contractor under a fabricated performance certificate. If the transfer is the mechanism by which the funds are first embezzled, it may be part of Article 167; subsequent circular transfers, nominee purchases or false loans can constitute Article 243. In the fourth, a relative receives an apartment registered in his or her name. Liability depends on proof that the relative knew the criminal origin and knowingly participated in concealment; kinship and formal ownership alone are insufficient.

Conclusion and Practical Proposals

The relationship between misappropriation or embezzlement and laundering cannot be resolved by the mechanical proposition that any transaction with criminal proceeds constitutes Article 243. Article 167 is directed at unlawful conversion of entrusted property; Article 243 addresses a subsequent or autonomous transformation of the apparent source, ownership, location, movement or legal basis of the proceeds. The correct boundary is therefore based on temporal separability and the objective function of concealment, disguise or legitimisation.

The study confirms that a single operation may constitute laundering, including self-laundering, but only when all five elements are proven: a predicate offence, identifiable proceeds, autonomous post-predicate conduct, a legitimising or concealing function, and knowledge and intent. Absence of lawful income is corroborative, not self-sufficient. Proof should be organised through a transaction chronology and an evidence matrix integrating entrustment records, financial tracing, beneficial ownership, false documents, communications, digital evidence and forensic accounting.

The following practical proposals are advanced: (1) add differentiated basic and aggravated forms to Article 243; (2) expressly define the conditions of self-laundering and exclude conduct inseparable from completion of the predicate offence; (3) require detailed specification of each laundering transaction in the charge and judgment; (4) make parallel financial investigation mandatory in serious embezzlement cases; (5) expand value-based and narrowly regulated non-conviction-based confiscation with judicial safeguards; (6) preserve priority restitution to victims while confiscating residual criminal benefit; (7) establish centralised management and an electronic register of restrained and recovered assets; and (8) publish anonymised judicial decisions and outcome-based statistics on tracing, restraint, restitution, confiscation and foreign asset recovery,

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CONCEPT OF HELPLESSNESS AND ITS SIGNIFICANCE IN THE QUALIFICATION OF CRIMES

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Abstract. *The article analyzes problems associated with the criminal-law qualification of crimes committed against persons in a helpless state. It examines the content of the concept of helplessness, the circumstances that may cause such a state, and its significance as a qualifying or aggravating element in the legal assessment of an offence. Particular attention is paid to the victim's age, physical and mental condition, sleep, unconsciousness and severe intoxication. The study also identifies qualification problems arising from the absence of a precise statutory definition of helplessness in the criminal legislation of Uzbekistan. Based on comparative legal analysis, the article substantiates proposals to introduce a criminal-law definition of helplessness and a separate concept of the victim's procedural helplessness. The proposed approach is aimed at improving legal certainty, ensuring uniform qualification of offences and strengthening the criminal-law and procedural protection of persons who are objectively unable to understand or resist criminal conduct.*

Keywords**:** *helplessness, victim, crime, qualification, criminal-law protection, elements of crime, aggravating circumstance, procedural helplessness.*

Article 1 of the Constitution of the Republic of Uzbekistan establishes Uzbekistan as a sovereign, democratic, legal, social and secular state with a republican form of government. The principle of a "social state" imposes on the state the task of giving priority protection to vulnerable groups of society, including children, elderly persons and persons with disabilities [1]. Therefore, as a necessary condition for ensuring the criminal-law protection of persons in a helpless state, it is important to examine the nature of threats to personal security and the structure of the rights and lawful interests affected by such threats.

The rules developed within the universal human-rights protection system and reflected in constitutional norms establish the general legal foundations of this issue. The Universal Declaration of Human Rights enshrines rules concerning human life and dignity, personal integrity, the prohibition of torture and cruel treatment, and the protection of rights and freedoms [2]. The International Covenant on Civil and Political Rights establishes respect for the inherent dignity of the human person. The International Covenant on Economic, Social and Cultural Rights establishes the principle of ensuring the highest attainable standard of physical and mental health. The Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities also provide measures for protecting relevant categories of persons from violence and exploitation.

These provisions demonstrate the relevance of protecting the rights and freedoms of persons in a helpless state from criminal encroachment. The socio-legal necessity of systematic protection of the concept of a "person in a helpless state" in criminal legislation is connected with the higher degree of victimization of the most vulnerable and

defenseless groups of society and with the increased social danger of attacks committed against them.

The study employed comparative legal, systemic-structural, logical-legal and statistical analysis methods. The research object comprised materials of judicial and investigative practice concerning crimes committed against persons in a helpless state, national legislation, and the criminal-law norms and practice of foreign countries, including France, Latvia, Estonia, Belarus, Kazakhstan, Germany, the Netherlands, Switzerland and Japan. Relevant judicial decisions and statistical data for the respective periods were also comparatively examined [12; 13].

The research established that the security of persons in a helpless state constitutes a system of objective and subjective elements characterizing relations in which such persons are protected against criminal threats to life, health, material and non-material benefits, rights and lawful interests arising in their interaction with other persons, society and the state.

The study identifies the following categories of persons in a helpless state: persons with physiological helplessness, including seriously ill persons, elderly persons and minors; persons suffering from mental disorders; persons in a state of severe intoxication whose ability to resist or protect themselves is limited; and persons in biological sleep or an unconscious state.

Helplessness is not limited to the internal characteristics of a person. A person may also become helpless as a result of the actions of other persons, natural or technological events, or other external circumstances. A person who is tied, restrained, trapped, submerged, crushed or otherwise placed in a situation threatening life or health and who cannot independently escape from that situation may also be regarded as being in a helpless state.

Under the Criminal Code of the Republic of Uzbekistan, committing a crime against a person in a helpless state may constitute a general aggravating circumstance or an essential qualifying element of a specific offence. For example, Article 56, paragraph 1(b), Article 97, paragraph 2(v), Article 110, paragraph 2(v), Article 115[1], paragraph 2, Article 118, paragraph 1, Article 119, paragraph 1, Article 135, paragraph 2(b), and Article 277, paragraph 3(d) contain circumstances related to helplessness as qualifying or aggravating elements.

One of the most serious attacks that may be committed against a person in a helpless state is intentional homicide (Article 97, paragraph 2(v), of the Criminal Code). In assessing all forms of encroachment, alongside the victim's helpless condition, it is important to establish whether the offender was aware of that condition. The offender's use of the victim's helplessness and awareness that the victim was in such a state constitute an important subjective element for qualification.

Analysis of judicial decisions made it possible to identify two principal approaches. Under the first approach, the relationship between the victim's condition and the offender's awareness of that condition is reflected in the reasoning section of the judgment. Under the second approach, the victim's helpless state is assessed as a circumstance justifying the imposition of a more severe punishment.

Comparative analysis of foreign experience and legislation demonstrates two principal approaches to the legal regulation of

helplessness: creating a system of special provisions describing situational helplessness; and ensuring effective identification of indicators of situational helplessness and, on that basis, application of a special legal provision.

For example, in judicial practice of the Republic of Belarus, a helpless state is interpreted as a condition in which, due to the physical or mental condition of the victim, the victim is deprived of the ability to actively resist the offender, escape the attack or otherwise oppose it [14]. The Criminal Code of Kazakhstan demonstrates that young age and helplessness are not identical concepts. The legislation of Germany and Switzerland also indicates that helplessness may be determined by the circumstances and environment in which the crime was committed.

In practice, the ambiguity of terminology, deficiencies in the structure of legal provisions and the absence of a statutory definition of "person in a helpless state" create a need to unify the content of this concept.

Based on the findings of the study, the following scientific and practical proposals are put forward.

Introduction of a criminal-law definition. It is appropriate to introduce the following definition of helplessness into criminal legislation: "Helplessness is the psychosomatic status of a victim at the time of the commission of a crime that prevents the victim from understanding the nature and significance of the offender's actions or from resisting the offender."

Clarification of causative factors. The principal circumstances causing helplessness—minority, advanced age, physical or mental impairments, somatic illnesses, severe alcohol or drug intoxication, sleep and unconsciousness—should be clearly established in legislation.

Improvement of Article 56 of the Criminal Code. It is appropriate to state paragraph 1(b) of Article 56 as "against a victim who is in a helpless state".

Liability for rendering a victim helpless by substances. The legal consequences of rendering a victim helpless through psychotropic, narcotic or potent substances that create a real danger to life or health should be separately established.

Formation of the concept of procedural helplessness. It is proposed to introduce the following rule: "The victim's procedural helplessness is a psychosomatic status that, during investigation of a case, prevents the victim from understanding his or her criminal-procedural status, participating in procedural actions, or independently protecting his or her rights and lawful interests."

Preventive and technical measures. Special law-enforcement and preventive mechanisms for protecting persons in a helpless state should be broadly implemented, including simplified communication tools and information-technology resources for persons with limited mobility.

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

LEGAL SIGNIFICANCE OF THE INSTITUTION OF CRIMINAL RECORDS IN PROTECTING HUMAN RIGHTS

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Abstract. *This article presents a comparative legal analysis of the consequences of a criminal record and examines their criminal-law and general legal implications from the perspective of human rights and freedoms. It is proposed that criminal-law consequences should include substantive criminal-law, criminal-procedural, and penal-enforcement consequences. General legal consequences are defined as legal effects associated with restrictions on an individual's rights and freedoms in the fields of constitutional, civil, labour, family, and other branches of law. It is substantiated that general legal consequences differ from criminal-law consequences in that they are reflected not in criminal, criminal-procedural, or penal-enforcement legislation, but in other sector-specific legislative acts regulating human rights and freedoms. It is also recognized that the consequences of a criminal record may continue after the record has been expunged or set aside and, in certain cases, may have legal effects not only on the convicted person but also on close relatives or other persons.*

Keywords. *criminal record; consequences of a criminal record; criminal-law consequences; general legal consequences; legal restrictions; rights and freedoms.*

The adverse consequences of a criminal record that negatively affect the lives of former convicts and restrict human rights and freedoms beyond the scope of legal consequences established by a court judgment have become the subject of scientific research by numerous scholars and practitioners, including sociologists, legal scholars, medical professionals, social-sector specialists, and others. Persons with criminal records face long-term, and in some cases lifelong, difficulties in exercising their labour rights and obtaining employment in the labour market. Moreover, because society may perceive them as socially dangerous persons, they may be forced to live under the risk of deprivation and hardship; most importantly, their rights and freedoms may be artificially restricted.

In this regard, an in-depth study of this problem is of great importance from the perspectives of the administration of justice and human rights. On the one hand, it is necessary to ensure the resocialization of persons who have previously been convicted, their full integration into society, the restoration of their restricted rights, and the creation of conditions for their equal access to social benefits. On the other hand, the task of effectively protecting society from the risk of repeat offending (recidivism) is also of particular importance.

In the theory of criminal law of the Republic of Uzbekistan, the institution of criminal records is considered one of the most complex and controversial institutions from both theoretical and practical perspectives. To date, legislation has not established a formal definition of a criminal record, no unified approach has been developed regarding its place within the system of legal institutions,

and certain characteristics of this institution require additional scholarly analysis.

There are numerous scholarly approaches in criminal-law theory aimed at classifying the consequences that characterize the legal nature of a criminal record. Most scholars of both the contemporary and Soviet periods divide the consequences of a criminal record into two principal groups: criminal-law consequences and general legal consequences. These scholars include V.N. Kudryavtsev, G.A. Krieger, G.N. Borzenkov, A.V. Brilliantov, D.I. Aminov, and others [1; 2; 3; 4]. Some scholars additionally identify penal-enforcement or administrative-law consequences as independent groups, including A.Ya. Grishko, A.M. Potapov, N.A. Belyaev, and M.I. Kovalev [5; 6; 7].

According to a number of the researchers mentioned above, it is appropriate to include substantive criminal-law, criminal-procedural, and penal-enforcement consequences within the category of criminal-law consequences. Although these consequences are closely connected with different stages of criminal proceedings, they possess independent characteristics in terms of their subject matter of legal regulation and their affiliation with a particular branch of law.

The second group of scholars distinguishes other legal consequences of a criminal record and recognizes them as constituting a group of general legal consequences. In academic literature, they are sometimes also described as "criminological consequences" or "non-criminal-law consequences." In this regard, the views expressed by researchers in recent years are of particular scholarly interest. In particular, G.Kh. Shautaeva notes: "A criminal record is an accusation of a person who has committed a crime, taking the form of a legal fact of a temporary nature; it is reflected in the conviction of the court that imposed the punishment, which has entered into legal force, and this gives rise to specific criminal-law and general legal consequences for the convicted person" [8].

This view is also supported by a number of Uzbek scholars. In particular, in the Criminal Law textbook of the Academy of the Ministry of Internal Affairs of the Republic of Uzbekistan, R. Kabulov and F. Yakubov state with regard to criminal-record status: "A person is considered to have a criminal record from the moment the court's conviction, by which that person was sentenced to a specific punishment for committing a crime, enters into legal force. Thus, a person is considered to have a criminal record both during the period of serving the sentence and for a clearly defined period after having served it. However, a person who has been released from punishment by a court judgment is not considered to have a criminal record" [9].

In our view, the principal shortcoming of the above definition is that it does not fully reflect the rules concerning the general legal consequences of a criminal record. It merely indicates the existence of legal consequences to which a person is subject during the period of the criminal record. However, it is known that, from the standpoint of ensuring certain human rights, the fact of a person's criminal record may continue to be reflected in adverse general legal restrictions even after the period of the criminal record has expired, including after the record has been removed or expunged ahead of schedule.

According to researcher L.V. Semina: "A criminal record serves as a specific legal warning to a convicted person aimed at preventing the commission of a new crime. This warning retains its legal force until the

circumstances that served as the basis for considering the convicted person dangerous to society have been eliminated. At the same time, a conviction imposing punishment means that the court considered it necessary to apply the effect of punishment to the convicted person. Execution of such punishment entails appropriate state and public supervision over the convict's conduct. Therefore, a criminal record requires society to exercise supervision over the conduct of the convicted person" [10].

In our opinion, the most appropriate definition of the concept of a "criminal record" is provided in the scholarly work of Belarusian scholar V.V. Marchuk. He states: "A criminal record is a temporary special legal status of a person that arises from the day a conviction for a crime enters into legal force as a result of the person being convicted by a court, continues until the expiry of a certain period established by law, and may also be regarded as a legal status confirming the existence of adverse criminal-law and general legal consequences for the person with a criminal record" [11].

Thus, based on an analysis of the definition given by V.V. Marchuk, the following specific characteristics of a criminal record can be identified:

— a criminal record is temporary in nature; it arises from the day a conviction enters into legal force and continues for a certain period established by law;

— a criminal record determines a person's special legal status, meaning that it produces adverse consequences for the convicted person in both criminal-law and general legal terms;

— a criminal record arises only as a result of a person being convicted by a court for a crime committed by that person.

The views of the above-mentioned researchers characterize a criminal record in terms of its impact on a person's constitutional rights and freedoms and on rights and freedoms in the civil, labour, family, and other branches of law. Therefore, the institution of criminal records may also be considered, in this sense, an intersectoral legal institution.

General legal consequences are distinguished by the following characteristics:

— they are established not by criminal, criminal-procedural, or penal-enforcement legislation, but by other legislative acts;

— their legal significance may remain even after the criminal record has expired or been removed;

— they may have legal effects not only on the person with a criminal record but, where provided by legislation, also on close relatives of that person or on legal entities.

The emergence of general legal consequences is not absolute in nature. As a rule, their application depends on the existence of specific legal facts established by legislation. Such conditions include the category and type of crime, the elements of the offence, the form of guilt, the form of plurality of offences, the place where the crime was committed, and the type of punishment imposed.

When classifying general legal consequences, the following criteria may serve as the basis: their duration and territorial scope; the subjects of legal restrictions; the degree of mandatory legal impact; the scope of restrictions concerning human rights; the legal force of the legal basis; their affiliation with a branch of law; their legal construction; and their sphere of application.

According to duration, general legal consequences may be divided into temporary, indefinite, and permanent types. In terms of territorial application, they may apply throughout the territory of the state or within a

specific part thereof. According to the subject of legal restrictions, they may be divided into primary and additional subjects. The primary subject is a natural person who has or previously had a criminal record. In certain cases, other persons who are in legal relations with a person with a criminal record may also appear as additional subjects.

According to the degree of mandatory force, the consequences of a criminal record may have imperative or dispositive characteristics. In terms of their affiliation with a branch of law, they may be divided into consequences associated with restrictions on rights and freedoms in constitutional, civil, labour, family, and other branches of law.

According to their legal construction, general legal consequences may be divided into simple and complex types. Simple consequences are generally associated with the fact of a criminal record itself or with the existence of one additional legal circumstance. Complex consequences, in addition to the criminal record, require the existence of additional legal circumstances such as the category of the crime, the form of guilt, or the type of crime.

According to their sphere of application, general legal consequences may be divided into those associated with restrictions on personal, political, social, economic, and cultural rights.

Thus, it is appropriate to include criminal-law, criminal-procedural, and penal-enforcement consequences within the criminal-law consequences of a criminal record. Although they are connected with different stages of criminal proceedings, they possess independent significance in terms of their legal nature and sectoral affiliation.

General legal consequences, in turn, are legal consequences associated with restrictions on a person's personal, political, socio-economic, and cultural rights, as well as restrictions on their social activity and opportunities to participate in the life of society. Unlike criminal-law consequences, they are regulated by legislative acts belonging to other legal sectors, may continue to apply after a criminal record has expired or been removed, and in certain cases may have legal effects on other subjects as well.

The legal consequences of a criminal record and their relationship with human rights and freedoms are also confirmed by researchers in a number of foreign countries. In particular, according to contemporary English researcher Andrew Henley, because the practice of checking an individual's criminal history has become widespread and persistent concerns remain regarding the risk of future offending, many people who have completed their sentences within the criminal justice system experience a "non-superior status." As a result, they are subjected to unfair discrimination and, in practice, may find themselves in a condition of "social death" [12].

It is considered that the United Kingdom has certain legal mechanisms aimed at protecting former offenders from discrimination. In particular, the Rehabilitation of Offenders Act adopted in 1974 establishes the concept of a "rehabilitation period." After this period expires, a person is generally no longer required to disclose information about their criminal record because such a record is considered "spent," meaning that it has lost its legal effect. Under the Legal Aid, Sentencing and Punishment of Offenders Act adopted in 2012, persons sentenced to imprisonment for more than four years cannot be rehabilitated

under the law (section 5). The Offender Rehabilitation Act of 2014, adopted with the aim of reducing the number of repeat offences, further tightened the legal framework operating in this field [13].

According to Professor Henley, the increasing practice of checking criminal records is leading to a significant decentralization of the state's powers concerning the imposition of punishment. This means that, in practice, these powers are being transferred to employers, insurance organizations, housing services, and other actors. As a result, such actors acquire the ability to "punish" former offenders in their own way by depriving them of social, economic, and other rights [14].

It should be noted that the provisions of the above-mentioned laws have repeatedly given rise to disputes before courts in the United Kingdom and also before the European Court of Human Rights. By a majority, the European Court found the relevant restriction incompatible with the "right to free elections" provided for in Article 3 of Protocol No. 1 to the European Convention on Human Rights and Fundamental Freedoms. Nevertheless, this prohibition remains in force to the present day [14].

In the United States, the history of establishing lifetime registries for persons who have committed sexual or violent offences is primarily associated with the adoption of four federal laws enacted in memory of victims of crime and named after them. These laws imposed an obligation on states to introduce registration programmes for persons who had committed sexual offences. The programmes enabled local law-enforcement agencies to obtain information about where such persons lived. The laws also introduced systems for notifying the public that such offenders resided in a particular neighbourhood or community [15].

Subsequently, additional laws regulating this area were adopted in certain states. For example, the "Megan's Law Sex Offender Internet Registry," adopted in the State of New Jersey in 2001, provides for maintaining an internet registry of persons who have committed sexual offences. Under this law, detailed information about such persons is published on the Internet [16].

The comparative legal analysis presented above demonstrates that, although approaches to the concept of a criminal record and the differentiation of its legal consequences have specific characteristics in each national legal system, certain typological similarities also exist among them. Under the influence of the global threat of transnational crime, an increasing number of foreign states are introducing into legal practice the approach of establishing long-term, and in some cases lifelong, legal consequences of criminal records for certain types of offences.

The foreign experiences discussed above, together with the analysis of new trends in the criminal policies of certain foreign states undertaken in this comparative legal study, demonstrate that today a complete abandonment of the institution of criminal records and their legal consequences may be regarded as a kind of "aesthetic protest" of law against society. The criminal policies of contemporary foreign states do not reflect a trend toward reducing or liberalizing the social stigmatization of convicts or granting them a number of additional rights and freedoms. On the contrary, in relation to crimes of an international nature, particularly corruption, extremist, and terrorist offences,

modernization of criminal legislation is being carried out not with the aim of improving the legal status of convicts, but within a trend of "over-criminalization." This is manifested in the strengthening of special rules providing for liability for such acts, as well as in the reinforcement of their general legal consequences.

At the same time, the legal consequences of a criminal record continue to be interpreted in connection with the presumption of the social dangerousness of the convicted person, the prejudicial significance of criminal-law consequences, and the social and legal "stigmatization" of a person even after the criminal record has expired or been removed, including through restrictions on the provision of basic human rights and freedoms.

Since contemporary legislation covers a broad range of relations associated with restrictions on human rights and freedoms, one of the urgent tasks in the field of regulating the consequences of criminal records is to systematize and unify legislation and to ensure coordination among normative legal acts of different levels.

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

THE APPLICATION OF CRIMES WITH BLANKET NORMS: CURRENT STATUS AND ISSUES

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Abstract. *This article analyzes the practice of applying blanket norms in criminal law, their theoretical and legal foundations, as well as current issues arising in law enforcement practice. The purpose of the study is to reveal the essence of blanket dispositions, substantiate their interrelation with legislation of other legal branches, and develop scientific and practical proposals to eliminate gaps in crime qualification. Comparative-legal, systemic-structural, formal-legal, and statistical analysis methods were utilized in the research. The article examines theoretical perspectives ranging from Karl Binding's doctrine to modern criminal law concepts, revealing the characteristics of blanket dispositions through Articles 99, 184, 185², 196, 257, and 259 of the Criminal Code of the Republic of Uzbekistan. As key results, intersectoral terminological discrepancies and complications related to administrative prejudication were identified in qualifying tax crimes, labor protection and fire safety violations, and offenses against human life. In conclusion, proposals are put forward to unify terminology across criminal and sector-specific legislation, reduce excessive reliance on bylaws, and uphold the principle of legal certainty.*

Keywords: *blanket norm, blanket disposition, criminal law, qualification, intersectoral link, tax crimes, administrative prejudication, legal certainty.*

The academic understanding of blanket dispositions holds a special place in criminal law. Many scholars have addressed this issue. However, the problem of "blanketness" was first raised by the German scholar K. Binding, who proposed the concept of a "blanket criminal law disposition." He categorized dispositions under this heading as those containing criminal law prohibitions that require clarification by regulations outside the scope of criminal law. Recognizing the promising yet debatable nature of the academic field highlighted by K. Binding, criminal law scholars began to propose their own perspectives on the concept and substance of blanket criminal law dispositions [1].

It should also be noted that Karl Binding's idea was of great importance for the theory and practice of criminal law. His work stimulated a deeper study of the essence of blanket norms, the necessity of their application, and the problems that arise. According to Binding's doctrine, criminal law establishes liability for violations of rules set by other branches of law (administrative, civil, etc.). Blanket dispositions, in turn, require reference to other normative documents to identify such violations. Although Binding's views have faced some criticism, in our view, they served as an important theoretical foundation that defined the specific characteristics of blanket norms and their place in the legal system. A similar point of view is supported by I.A. Mikhailova. In one instance, she interprets the highlighted elements literally, arguing that the blanket disposition within the criminal law

itself does not define the elements of a criminal act[2]. In another instance, however, she indicates that in a general form, it still contains a criminal-law prohibition. At the same time, for a more precise determination of the elements, the blanket disposition directs us to the regulations of another field of law. We consider this position debatable, as the complete absence of a corresponding prohibition in a criminal-law disposition is objectively impossible. Indeed, it may not contain all the elements of the act, but the fundamental elements reflecting its essence must undoubtedly be present. A more in-depth study of the problem under consideration has shown that a blanket disposition certainly includes conceptual tools not characteristic of criminal law. This requires referring to another normative act or branch of law to correctly understand blanket provisions. Having considered this issue in more detail, we agree with the views of L.D. Gauxman [3]. In one of his works, he argued that a blanket disposition must necessarily contain the elements of a crime, but that some of them are described not in the Criminal Code, but in other normative legal acts. It should not be forgotten that a blanket disposition incorporates a large number of components. They are not fully described within it, as the legal-technical construction of such criminal-law prohibitions is excessively complex and impractical. In this case, the legislator merely indicates that the question of the emergence of criminal legal relations arises when the elements of an offense that have caused consequences significant to criminal law are identified. Crimes that encroach on road safety or the operation of vehicles serve as an example of this [4]. Socially dangerous consequences that arise without reference to the rules of the same name and without identifying their violation will not have any criminal-law significance. Our research has shown that there are many definitions of blanket dispositions that differ significantly from one another. Therefore, in the doctrine of criminal law, there are no universally recognized characteristics for it. In this regard, one must agree with G.N. Borzenkov, who noted the excessive breadth of content of the blanket dispositions used today, which provides a basis for distinguishing independent levels of "blanketness" [5]. However, the majority of works dedicated to the problem of studying blanket dispositions highlight their main distinguishing feature. Their inextricable link with normative prescriptions that do not have criminal-legal content is noted [6]. In our opinion, this characteristic is the main conceptual feature of blanket dispositions. However, in the doctrine, their connection with the normative prescriptions of other branches is defined differently. One group of scholars argues that blanket dispositions can contain both explicit and abstract references to a non-criminal normative act. At the same time, the reference must include the source to which one should refer [7]. In our view, such an approach significantly narrows both the essence of blanket dispositions and the practice of their application. Another group of scholars, with whom we agree, interprets the connection between blanket dispositions and other branches of law more broadly.

For example, according to N. V. Belyayeva and I.N. Bokova, a blanket legal norm implies the need to refer to numerous subordinate departmental normative acts to determine its content [8]. This indicates that the legislator, in the main body of the law, does not directly specify the referenced normative act that must

be consulted to establish all the elements of a particular crime. In our opinion, this approach creates more opportunities to improve the quality of the fight against crime, demonstrating the integral connection of criminal legislation with other branches of law as the primary guarantee of compliance with universally recognized rules of legal conduct. When drafting blanket dispositions, the legislator often uses phrases such as "in accordance with..." (Articles 182, 232, 266, etc.) or "established by law...." Terms such as "unlawful," "illicit," or "illegal" used in formulating criminal-legal prohibitions can also be indicators of a blanket provision. However, in this case, it is necessary to establish that legally defining the aforementioned terms requires their interpretation from the perspective of other branches of law. Without this necessity, such a disposition cannot be a blanket disposition [9]. Although direct references to other normative legal acts may not be found within the formulation of several criminal law prohibitions, this does not provide a legal basis for excluding such dispositions from the category of blanket dispositions. In particular, the disposition of Article 169 of the Criminal Code of the Republic of Uzbekistan establishes liability for the secret theft of another's property. In our opinion, when applying this article, the law enforcement officer does not always refer to the Civil Code of the Republic of Uzbekistan, which enshrines the legal concept of "property." In this situation, it can be assumed that when determining the elements of a form of embezzlement such as theft, neither the content of the concept of "property" nor the resulting characteristics of the object of theft are always clarified. Based on the foregoing, it can be concluded that the connection of blanket criminal-legal dispositions with the acts of other branches of legislation is necessary and sufficient for establishing the precise elements of a specific crime, as well as the facts of the case. In this matter, one can agree with the opinion of I. A. Mikhaylova and A. V. Selskiy that a blanket disposition does not contain all the mandatory elements of a crime [10]. It is precisely this circumstance that, first and foremost, gives us grounds to call such a disposition a blanket disposition, because the elements of a specific corpus delicti are detailed in the acts of other branches of law.

The establishment of liability for tax evasion serves as an example. The main problem stems from the complex and vague legal-technical structure of the legal provisions in Article 184 of the Criminal Code of the Republic of Uzbekistan, which reference the norms of tax legislation, as directly indicated by the legislator in the disposition of the article. This reference to tax legislation fails to clarify the issue due to the casuistic nature of its provisions, as well as the vague description of the elements that constitute a crime. The reason for this is the difference in the description of economic categories (tax, fee), which are expressed in the plural in criminal law but in the singular in tax law. The Criminal Code of the Republic of Uzbekistan specifies "evasion" as a form of criminal conduct (Article 184), whereas the Tax Code of the Republic of Uzbekistan speaks of "non-payment." These differences in the use of terminology create problems in determining the elements of tax crimes. For example, if the most common method of interpreting legal norms—grammatical interpretation—is applied, it leads to the conclusion that criminal liability would not arise for evading a single tax, even if

the unpaid amount meets the criteria established in Article 184 of the Criminal Code. Problems also arise in identifying the elements of evasion itself. Specifically, if an individual submits tax documents within the legally prescribed period and they do not contain false information, but the individual simply refuses to pay the tax, can this behavior be classified as criminal? Eliminating these contradictions is possible only by standardizing the terminology used in the field of taxation. Given that the primary regulator of relations in tax collection is the Tax Code of the Republic of Uzbekistan [11], we believe that the terms used in developing tax legislation norms should also be applied in other areas of law that indirectly affect the tax sphere. This view was supported by a majority of the surveyed respondents (67% of specialists and 71% of citizens). The principles we have outlined provide the basis for proposing amendments to Article 184 of the Criminal Code of the Republic of Uzbekistan, specifically to replace the terms "evasion," "taxes," and "fees" with "non-payment," "tax," and "fee," respectively. This opinion was also supported by the majority of respondents (67% of specialists and 71% of citizens).

The blanket nature of criminal legislation is also observed in the protection of the most valuable asset—life. The question of determining the beginning and end of life remains controversial. The determination of when life begins, i.e., the moment of a child's birth, is defined differently in various sources, and significant differences exist between the viewpoints presented in criminal law doctrine and in medicine [12]. Thus, in accordance with the Order of the Ministry of Health of the Republic of Uzbekistan "On the Approval of the Instruction on the Procedure for Issuing Medical Certificates of Birth, Perinatal Death, and Death Certificates in Healthcare Institutions" [13], the medical criteria for birth are as follows: - a gestational age of 22 weeks or more; - a birth weight of 500g or more (or less than 500g in the case of multiple births); - a body length at birth of 25cm or more (if the birth weight is unknown); - a body length of less than 25cm if the gestational age is less than 22 weeks, or the birth weight is less than 500g, or the birth weight is unknown, provided the child has lived for more than 168 hours (7 days) after birth. In this context, a live birth is considered to have occurred when the gestational age is 22 weeks or more, the infant's body weight is 500g or more (or less than 500g in multiple births), or the birth weight is unknown but the body length is 25cm or more, and the infant shows signs of being born alive (breathing, heartbeat, pulsation of the umbilical cord, or voluntary muscle movements, regardless of whether the umbilical cord has been cut or the placenta has separated). All of the above, of course, provides a basis for us to firmly assert that a child is alive and has a right to life. It should be emphasized that these criteria and signs are significant for establishing the legal fact that a child has been born and was born alive.

However, they cannot be fully used to determine the time when the criminal-legal protection of life begins. Life, as an object of criminal-legal protection, arises before the moment of a child's live birth is officially determined [14].

In this regard, the question arises about the necessity of identifying an earlier point for the beginning of life. To resolve this, it is necessary to identify the moment that objectively allows for the mother to intentionally kill the newborn. Killing during childbirth is objectively possible at the moment

the fetus exits the mother's body[15]. However, a mandatory condition that must be established in this case is the determination of the possibility of a live birth. This should be determined by a forensic medical examination, because if it is established that the child was stillborn, the perpetrator's actions must be qualified as an attempted murder of a newborn. Currently, judicial and investigative practice adheres to precisely this approach[16]. There is also no consensus on the definition of the concept of a "newborn." Thus, the most widespread opinion in the doctrine links the primary characteristic of a newborn to the duration of its life after birth, which varies within three to four weeks[17].

In pediatrics, the neonatal period is defined as lasting for one month from the moment a child is born[18]. The reason for such discrepancies is that there is currently no standardized definition of a newborn. Therefore, the neonatal period is associated with the process of adapting to environmental conditions, which lasts on average from 28 to 30 days[19]. The foregoing provides a basis for us to conclude that the privileged nature of a mother's liability for killing her newborn immediately after childbirth or in a psycho-traumatic situation is linked to the child's status as a newborn, rather than the physiological process of childbirth, as is the case with infanticide during labor.

Considering the above, it is advisable to clearly establish a specific timeframe in the disposition of Article 99 of the Criminal Code that defines the period covering the concepts of "during childbirth" and "immediately after childbirth." The current version of the norm established in the Criminal Code of the Republic of Uzbekistan for the crime of a mother intentionally killing her own infant is not sufficiently well-developed. This, in turn, creates certain difficulties in differentiating this crime from similar offenses and in understanding the criteria that justify its recognition as a crime with mitigating circumstances. All these issues can manifest during the investigation and inquiry conducted following the commission of this crime, as well as in the rendering of a court decision.

The use of blanket provisions is also observed in determining the end of life, i.e., the moment of death's onset. The Instruction on the Procedure for Issuing Medical Birth Certificates, Perinatal Death Certificates, and Death Certificates in Healthcare Institutions of the Republic of Uzbekistan [20] states that the time of a person's death is the time of their brain death or their biological death (the irreversible death of a person).

The considerations stated above allow for the conclusion that the rules ensuring the protection of the most important benefit expressed in the disposition—specifically, human life—are of an extremely blanket nature. It is impossible to objectively determine all the elements of such an act without referring to other normative legal acts that do not have a criminal-legal content.

Thus, within the framework of protecting individual interests, blanket criminal law demonstrates the effectiveness of its interaction not only with other branches of national law but also with universally developed international legal instruments. However, unless otherwise specified, the institutions and concepts from other branches of the legislation of the Republic of Uzbekistan should be applied in criminal law with the same meaning as established in those respective branches. To avoid errors in the qualification of an act that

references other legal documents, it is necessary to specify the elements constituting the corpus delicti by referring to the source of the sectoral legislation. In this context, priority is given to the dispositions of sectoral legislation for the legal assessment of the act, which manifests as a legal fact, and for the accessory nature of criminal law. The research conducted by us provides the basis for distinguishing the following features of a blanket disposition in criminal law:

- the absence of a complete list of the elements of a socially dangerous act;

- having an abstract, generalizing character;

- an organic connection with the norms of other branches of law;

- the impossibility of determining the full elements of a socially dangerous act and revealing their content without reference to legislation in other fields.

As is well known, blanket norms in criminal law—also referred to as "blanket rules" or "referential norms"—are specific legal norms where certain elements of a crime's composition are not directly specified in the Criminal Code but are instead referenced in other normative-legal acts. Such acts may include various laws, by-laws, technical regulations, standards, instructions, sanitary rules and norms, traffic regulations, and others.

Today, blanket norms are widely used in the criminal legislation of Uzbekistan, Russia, and other CIS countries. Their use is driven by a number of objective factors. In particular, societal relations, technologies, and spheres of activity—such as industry, construction, ecology, and transport—are constantly evolving. Incorporating all detailed rules and regulations directly into the Criminal Code would make it excessively large and necessitate constant amendments. Blanket norms allow the Criminal Code to remain relatively stable, as the specific rules that give rise to criminal liability can be quickly updated in specialized documents. *Secondly,* the *specialization* of criminal legislation *is a factor;* crimes in areas such as ecology, industrial safety, sanitary-epidemiological well-being, and transport require deep, specialized knowledge. Blanket norms enable these issues to be regulated in specialized normative documents developed by experts in the relevant fields. *Thirdly,* reducing the volume of the Criminal Code. That is, using references significantly reduces the size of the Criminal Code, making it more concise and user-friendly. Despite the clear advantages of using blanket norms in criminal law, their application creates a number of serious problems in law enforcement practice. The first problematic situation is *the complexity of determining the full content of the applied norm.* Here, to correctly qualify a crime defined by a blanket norm, the law enforcement official—be it an investigator, prosecutor, or judge—must ascertain not only the disposition of the Criminal Code article but also the content of the referenced normative document. For example, to understand the elements of a crime, it may be necessary to study dozens, and sometimes hundreds, of different laws, by-laws, technical regulations, and instructions that were in force at the time of the offense. Further issues include the absence or ambiguity of specific references, or alternatively, the varied interpretations of those references. Some blanket norms do not provide a clear reference to a specific document, but rather *refer to "rules," "regulations," or entire "legal institutions," for instance, "labor safety rules" or "sanitary rules."* This makes it difficult to find the necessary information. For example, Article 257 of the

Criminal Code addresses the violation of labor protection rules, Article 259 the violation of fire safety rules, and Article 196 the pollution of the natural environment, among others. In the disposition of Article 257 of the Criminal Code of the Republic of Uzbekistan alone, it states: *"Violation of labor protection, technical safety, or other production rules by the person responsible for their observance..."* This article does not specify which particular document or rule was violated. The source is referenced generally and abstractly as "labor protection and technical safety rules." In this case, to correctly qualify this crime and prove guilt, an investigator or judge must analyze hundreds of sectoral documents, such as: the norms of the Labor Code; Sector-specific technical safety and occupational hygiene rules (e.g., separate rules for construction, energy, and the chemical industry); A company's internal instructions and job descriptions (to determine which employee is responsible for which specific safety rule); Production standards and GOSTs. Similarly, the disposition of Article 259 of the Criminal Code of the Republic of Uzbekistan states: *"Violation of fire safety rules by the person responsible for their implementation."The* text of **this** article does not disclose which specific fire safety document is being referred to. To identify a violation, one is required to individually study the Law "On Fire Safety"; the national fire safety rules approved by the Ministry of Emergency Situations; technical regulations and building codes established for specific buildings and structures (public places, warehouses, gas stations); and the departmental instructions in effect at the time the offense occurred at the facility. Furthermore, when a conflict of norms arises, it is also necessary to take measures to resolve it. In another example, the crime of environmental pollution, defined in Article 196 of the Criminal Code, is described in that article as *"Pollution or degradation of land, pollution of water or atmospheric air, if it has caused mass illness among people, the mass death of animals, birds, or fish, or other grave consequences."*This concerns . However, this requires an examination of specific sectoral laws, the Land Code, the Law on Nature Protection, the Law on the Protection of Atmospheric Air, and the standards for permissible harmful substances in various technical regulations. To continue this line of thought, Article 4 of the Criminal Code, which outlines the principle of legality, stipulates that the criminality, punishability, and other legal consequences of a committed act are determined solely by the Criminal Code. However, in practice, the application of blanket norms *creates a problem in ensuring the principles of legality and legal certainty.* This is because the principle of legality requires that criminal law be clear, precise, and predictable. Blanket norms, which depend on the content of other frequently changing documents, can create difficulties for citizens in understanding which actions are criminal. This undermines legal certainty.

Another problem that warrants significant attention is *the emergence of complexities in classifying and proving crimes under blanket norms.* Unlike direct criminal law norms, blanket norms require proving not only the act itself and its consequences but also the violation of specific rules and the causal link between this violation and the resulting socially dangerous consequences. In many cases, various expert examinations—such as technical, construction-technical, environmental, fire-technical, and medical—are required for crimes involving blanket norms. The quality and validity of expert

opinions directly affect the outcome of the case. Deficiencies in conducting these examinations may lead to the dismissal of the case or an acquittal. *For example, Article 258 of the Criminal Code establishes liability for violating safety regulations in mining, construction, or blasting operations. Now, let's say a layer of earth or a specific stratum in that area collapsed during mining, construction, or blasting operations, resulting in a worker's death. In this scenario, the mere fact of the incident is insufficient to prove guilt. To identify a violation, experts must examine design and estimate documentation, construction standards and regulations, and logs for concrete strength and safety procedures. Additionally, comprehensive construction-technical, forensic materials science, and occupational safety examinations are conducted. This situation often presents a risk of errors in determining causality and in the expertise itself: Did the ground or stratum collapse due to a defect in the seams, a design flaw, or the influence of a natural factor (e.g., an eco-geological tremor)? If a comprehensive expert examination cannot confirm a direct causal link between the rule violated by the accused and the consequence, the case will be dismissed in court or an acquittal will be issued.*

The next problematic issue *is the connection between blanket-norm crimes and administrative preclusion.* In a number of blanket norms, criminal liability arises only after a person has previously been held administratively liable for the same act. This means that for a criminal case, it is necessary not only to establish the elements of the crime but also to verify the legality and validity of the administrative liability. If the administrative decision has not entered into legal force or was issued with errors, it automatically precludes the possibility of criminal prosecution. For example, Article 185[2] establishes liability for the crime of violating the rules for using electricity, thermal energy, gas, or water supply. The disposition of this norm stipulates that *unauthorized connection to public electricity, thermal, gas, or water supply networks; or the intentional damaging of metering devices for electricity, thermal energy, natural gas, cold or hot water, including their seals; or external interference with such metering devices for the purpose of altering their readings, when committed after an administrative penalty has been applied for such actions, is a necessary condition for bringing criminal charges. This article e*ssentially means that a person was first held administratively liable under Article 101 of the Code of Administrative Liability for illegally connecting to a network and then repeated this act within one year. The person committed the crime specified in Article 185[2] of the Criminal Code. After the criminal case is initiated, the defense counsel files an appeal against the prior administrative penalty decision.

During an inspection, it is often discovered when an administrative report is being drafted that the blanket provisions of sectoral rules in the public utilities sphere have been violated; for example, impartial witnesses were not present during the inspection of a meter, or the administrative case was heard by the court without the individual being notified. In such cases, with the annulment of the decision on the administrative penalty, the primary element of Article 1852 of the Criminal Code is no longer present. Consequently, the criminal case is terminated under Article 83, paragraph 2 of the Criminal Code (*absence of corpus delicti in the act*). Practice shows that criminal cases involving blanket elements are frequently terminated due to the absence of corpus delicti. This is attributable to the aforementioned difficulties in proving specific

violations and their causal link to consequences that entail criminal liability. In our opinion, the application of blanket criminal law norms is an unavoidable reality of modern legislation, ensuring its flexibility. However, their application is associated with significant difficulties in law enforcement practice. Resolving these issues requires a comprehensive set of measures to improve legislation, enhance the qualifications of law enforcement officials, strengthen the role of expert institutions, and unify judicial practice.

One of the trends in the development of criminal legislation is the continuous increase in the number of blanket norms, the interpretation and subsequent application of which require reference not only to other federal laws but also to subordinate legislation, including regional and even departmental regulatory legal acts. The blanket nature of many criminal law norms allows for the identification of a so-called "mixed criminal law" within the structure of the relevant legal field, the application of which is impossible without reference to other non-criminal laws and/or regulatory legal acts[21]. At the same time, Part 1 of Article 1 of the Criminal Code states that "The criminal legislation of the Republic of Uzbekistan consists of this Code," and Part 1 of Article 3 of the Criminal Code specifies that "The criminality of an act, as well as its punishability and other criminal-legal consequences, are determined only by this Code." Furthermore, Part 2 of Article 3 of the Criminal Code emphasizes that "the application of criminal law by analogy is not permitted." *Consequently, a problem arises in determining the status of the regulatory legal acts to which blanket criminal law norms refer: can they expand or narrow the scope of criminal liability without amending the text of the criminal law itself?*

An analysis of blanket criminal law norms and the judicial practice of their application shows that the regulatory legal acts referenced or implied in such norms significantly affect the formal content of many crimes, thereby defining the limits of criminal liability. For instance, quantities of narcotic drugs and psychotropic substances greater than small amounts, as well as large amounts, are determined by a resolution of the Cabinet of Ministers, while the medical criteria for establishing the severity of harm to human health are set by an order of the Ministry of Health and Social Development. Therefore, almost any amendment or addition to these regulatory legal acts can lead to a narrowing or expansion of the scope of criminal liability and, consequently, to a change in the content of the corresponding blanket criminal law norms[22].

The indicated problem is further compounded by the fact that, unlike criminal legislation, which falls under the absolute authority of the Oliy Majlis of the Republic of Uzbekistan, other laws and regulatory legal acts to which blanket criminal law norms refer may belong to the joint authority of the Oliy Majlis and its subjects (for example, in the areas of administrative, tax, and labor law) or even to regional or departmental levels. Thus, as L.D. Gauxman correctly noted, the existence of blanket norms in the Criminal Code without a general norm regulating their application is "an unlawful delegation by the legislator of the authority to define the scope of criminal liability outside the Criminal Code to itself when adopting other non-criminal laws, and to other subjects of rule-making when adopting other regulatory legal acts"[23].

In our opinion, the first step towards stabilizing and systematizing criminal legislation should be to limit the types of sources of criminal law, specifically by excluding subordinate regulatory legal acts. It should be noted that the problems of applying blanket criminal law norms are highly multifaceted and are mainly examined in the context of the qualification of crimes[24].

However, in our view, some of the most complex issues in the theory of criminal law are related to the application of such norms in time and space. Regarding the territorial and extraterritorial application of criminal law norms, the rule established in Part 2 of Article 1 of the Criminal Code is of great importance, stating that this Code is based on the Constitution and the universally recognized norms and principles of international law. This rule corresponds to Part 4 of Article 15 of the Constitution, which proclaims the supremacy of international law: "The universally recognized principles and norms of international law, as well as the international treaties of the Republic of Uzbekistan, are an integral part of its legal system. If an international treaty of the Republic of Uzbekistan establishes rules other than those provided for by law, the rules of the international treaty shall apply." Based on Articles 28 and 29 of the Constitution of the Republic of Uzbekistan, as well as Article 10 of the Criminal Code, a person who has committed an act containing all the elements of a crime as provided for by the Criminal Code shall be held criminally liable. In this regard, international legal norms that provide for the elements of a crime should be applied by courts in cases where a provision of the Criminal Code directly establishes the necessity of applying an international treaty of the Republic of Uzbekistan. Therefore, regardless of where the crime was committed, criminal prosecution within the territory of Uzbekistan is carried out only in accordance with the Criminal Code, while international legal and regulatory acts are taken into account to the extent that they have been implemented into this Code; any other reference to them is possible in what is known as the international blanket nature of criminal law norms. In criminal law relations, the norms of international law are most actively considered when resolving extradition issues and determining the scope of persons who have immunity from criminal liability within the territory of Uzbekistan.

In our opinion, the aforementioned explanations of the Plenum of the Supreme Court of the Republic of Uzbekistan are of great importance for the practical activities of law enforcement agencies that apply criminal and other legislation. However, to grant these explanations universally binding force, it is advisable to codify them at the legislative level. Within the scope of the topic we are examining, such codification could be implemented by amending Article 1 of the Criminal Code accordingly. We believe this gap is a logical consequence of the incomplete reflection of the sources of criminal law at the level of Article 1 of the Criminal Code. Therefore, the relevant problem must be solved systematically, that is, by uniformly and consistently codifying the following in Articles 1, 11, and 12 of the Criminal Code: first, that this Code is based on the Constitution of the Republic of Uzbekistan, international legal instruments ratified by the Republic of Uzbekistan, and constitutional laws; and second, that the criminality of an act, as well as its punishability and other criminal-legal consequences, are determined by the Criminal Code and the aforementioned legal

instruments referenced or provided for in blanket criminal-legal norms. We think this proposal is also relevant to the content of Article 10 of the Criminal Code, which defines the basis for criminal liability, as well as Articles 11 and 12 of the Criminal Code, which regulate the temporal application of criminal law. As N.I. Pikurov noted, ..."since the legislator, when promulgating a criminal-legal norm, has provided for the possibility of amending additional provisions within the criminal law itself, such changes do not lead to the emergence of a new law" [25]. The author emphasizes that ..."a criminal-legal norm is formulated only in the criminal law, not in other normative acts that merely clarify and detail its content. Therefore, an update to the normative material that clarifies the criminal law does not imply a change to the law itself" [26]. At the same time, we believe it is necessary to note that subordinate legal acts referenced or provided for in blanket criminal-legal norms not only specify the latter but also establish the elements that characterize the corpus delicti of a particular crime. Furthermore, such legal acts do not always regulate the rules of conduct in a specific field of activity; they can also establish the thresholds for small to large quantities of narcotic drugs, the criteria for the severity of harm caused to health, and so on. That is, in our opinion, one cannot agree with the view that "a blanket disposition of an article of the Special Part of the Criminal Code contains all the elements of the corpus delicti, except for those disclosed in the articles of the General Part"[27], because such a disposition contains or implies blanket elements, which are a reference to another legal act where the corresponding elements are disclosed.*The absence of a codified general rule for the application of blanket criminal-legal norms creates irresolvable doubts in the practical activities of courts and other law enforcement agencies when resolving many issues, including those concerning the application of such norms in time and space. In our opinion,* until this gap in criminal legislation is eliminated, such doubts should be interpreted in favor of the persons being prosecuted. This includes the retroactive application of blanket criminal-legal norms, even when they refer to other laws and subordinate legal acts, if changes or additions to them in any way improve the situation of these persons.

In our view, a new approach to identifying the blanket norms of the Special Part of the Criminal Code ***is the analytical method.*** The logic of its application lies in understanding the content of the disposition's text, which requires determining the sufficiency of the substantive description of the elements of a crime for its qualification. If the textual analysis indicates a need to refer to the normative-legal acts of other branches of law to reveal (understand) the content, nature of the act, or its individual characteristics, then there is every reason to consider such a disposition a blanket one. A noted disadvantage of the proposed analytical method is the dependence of a law enforcement officer's scope of knowledge on the need to refer to supplementary legislation to understand the content of certain elements of the corpus delicti, which are described in a blanket manner in specific cases. In our opinion, individuals applying criminal law norms may identify varying numbers of blanket norms depending on their acquired knowledge, work experience, "professional deformation," and similar factors. Using the analytical method for identifying blanket norms, we have singled out 222 articles within the total volume of articles in the Special Part

of the Criminal Code whose dispositions contain blanket characteristics (constituting 82% of the total number of articles in the Special Part). We believe it is appropriate to classify all of them into six groups based on their method of exposition. **The first group** is characterized by the disposition of an article in the Special Part of the Criminal Code indicating a violation of a normative-legal act. Such an indication can be of a different nature. The most common is the violation of rules that led to certain consequences. **The second group** is characterized by the disposition of an article in the Special Part of the Criminal Code indicating actions contrary to the established legal procedure, through the use of words such as "unlawful," "illegal," "providing false information," "without authorization," "entering incorrect information," "through negligence," and "despite a prohibition established by law." **The third group** is characterized by the disposition of an article in the Special Part of the Criminal Code indicating a prohibition on the failure to perform certain actions that a person is obliged to carry out due to their activity, including through evasion, for example: an interested party evading the entry of information into the customs database when submitting necessary documents, evading the submission of documents when moving goods across the customs border, evading the surrender of precious metals and stones for refining or their sale to the state, evading the repatriation of funds from abroad, or evading the payment of customs duties or relevant taxes, etc. **The fourth group** is characterized by the disposition of an article in the Special Part of the Criminal Code indicating the performance/non-performance of official duties by a person, which can pertain to both the subject of the crime and the victim. **The fifth group** is characterized by a disposition of an article in the Special Part of the Criminal Code that describes the objective side of the elements of the crime, where there are no "indicator words" suggesting the need to refer to other branches of law, yet it is difficult or impossible to assess the actions of the guilty person without analyzing positive legislation. **The sixth group** is characterized by the use of terms and phrases from other branches of law in the disposition of an article in the Special Part of the Criminal Code, the clarification of which is significant for the qualification of the crime.

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

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

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***Abstract*:** *This article provides a retrospective study of the formation and development of liability mechanisms for offenses in the field of public procurement, spanning from the period of the "Avesta" to the present day. The subject of the research encompasses legal relations in public procurement and the targeted expenditure of budget funds, utilizing historical-legal comparative analysis, systematic approach, and formal-legal methodology. The main results obtained reveal the evolution of the public procurement institution and the specifics of punitive measures for corruption and breach of obligations across various historical stages. Furthermore, scientifically grounded proposals have been developed to eliminate gaps in current legislation and introduce special norms into the Criminal Code. The research results can be applied in law enforcement practice, the law-making process, and the academic curricula of law schools. In conclusion, preventing offenses and improving accountability in public procurement serve as a crucial prerequisite for ensuring the financial stability and security of the state.*

***Keywords*:** *public procurement, criminal liability, budget funds, corruption, historical-legal analysis, offense, transparency, economic security.*

It is known that to examine any event using the historical comparative method, that is, how it came about, Understanding the stages it has passed through and the manner in which it did so, as well as the consequences of the measures taken, makes it possible to ascertain the present state of this phenomenon and its prospects for future development[1, 5-6 pp.]. The historical method of analysis is of not only practical but also theoretical importance in revealing the essence of the existing legislation, because it "... reinforces the foundations of scientific theory and reflects its compatibility with national legislation and societal traditions"[2, 16 p.]. Therefore, the study of historical criminal law sources forms the basis for the formation of modern scientific views, ideas and theories, conditions their scientific significance and rigour, and for the criminal liability for the analysed crime, criminal-legal nature of criminal liability for the analysed crime, creating an opportunity to develop new proposals and recommendations aimed at further improving liability in the future[3, 56 p.]. An analysis of the history of the formation of norms and rules on liability for crimes in the field of public procurement shows that views on liability for them began to take shape with the emergence of the doctrine of crime. Because at every stage of society's development the wrongful and unjust punishment of an innocent person has been condemned, evidence has always been the inherent companion of justice. A glance at the

development of the doctrine of criminal law in Uzbek statehood leads back to the monument of the first half of the first millennium BC, the "Avesta". The earliest written source is provided in the "Avesta". The Avesta was the first to provide a detailed account of the tribes and peoples who inhabited this land, the legendary heroes, monarchs and states, the systems of state governance, and the issues of crime and punishment. The Avesta contains myths and legends about God and the gods, religious hymns and doctrines, and is closely linked with the religious tenets of Zoroastrianism.

The Avesta reflects the transition from a nomadic lifestyle to settled agriculture and early statecraft, noting the necessity of creating centralised reserves of grain, livestock, and weapons to protect the community and to provide for rulers. State needs were met not through market tenders but by compulsory levies in kind, comprising agricultural produce and handicraft goods. Furthermore, in the Avesta, special importance is given to the inviolability of obligations and the principle of honesty in transactions. The god Mitra is depicted as the guardian of contracts. Breach of contract, deceit in exchange, or failure to fulfil obligations, including those owed to the community or ruler, was considered one of the most serious offences[4, 18 p.]. The Avesta reflects the legal views of the peoples of the Near and Middle East. Although the legal rules are not presented in a systematic manner, they reflect the legal relations of that era. The regulation and methods of punishment are based on high human values. According to Zoroastrian doctrine, treason against the state and usurping another's property were considered sins, i.e., crimes. For it is recorded therein that no one should deny the trust he has received from his neighbour, 'let him not speak a lie', '... the fate of one who breaks his oath at the water and the kindling fire is unforgivable'[5].

Subsequently, at the beginning of the 8th century, Arab rule began in the territories of Central Asia, and with the introduction of Islam into these regions, Sharia norms came into effect. In Sharia law, the field of public procurement is based on the principles of protecting the public interest (maslaha al-amma), justice, from the people, abuse and waste are not permitted in procurement processes. For example, the use of interest-bearing loans or a penalty (fine) for delayed payment is forbidden in procurement contracts and their financing. The contract terms, product quality, price, and delivery deadlines must be absolutely clear. Ambiguity that could lead to future disputes was not permitted.

In particular, Allah the Almighty has commanded in the Noble Qur'an: "Do not consume one another's wealth by false means. And do not give a bribe to the judges (to consume a portion of the people's wealth by sinful means) while you know." (Surah Al-Baqarah, verse 188)[6, 19 p.]. Thus, it is clear that, according to Sharia norms, those who have taken the people's by bribery are subject to punishment in proportion to the criminal consequences of their actions.

In Islamic law (Sharia norms), "Indeed, Allah commands you to entrust the trusts to their rightful owners and to judge between people with justice" (Surah an-Nisa, verse 58)[7, 5 p.]. Therefore, this means that in tender and procurement processes, awarding the contract fairly, without favouritism, to the deserving entrepreneur who can carry out the work in the best and highest quality manner is a religious obligation. Later, in the 9th–12th

centuries, the Qarakhanids ruled in the territory of present-day Uzbekistan, In the states ruled by the Samanids and Ghaznavids, goods and services were procured to cover military expenditure, construction works, food supplies and other state-related costs. During this period, state procurements were often carried out through compulsory tax levies or funds allocated from state reserves. Procurement in these times was often decentralised, conducted through direct negotiations or simple orders. This, in turn, could not ensure the transparency of procurement[8, 139 p.].

Subsequently, these matters were resolved on the basis of the Mongol Yassa, which served as one of the principal sources of law during the period of Mongol rule in Central Asia in the early 13th century[9, 149 p.]. In particular, this document does not directly contain the term "public procurement" in the modern sense, since no such economic system existed at the time. However, very severe penalties were prescribed for corruption and indiscipline in the spheres of trade, product delivery and the fulfilment of obligations. In this regard, the most famous and relevant rule in the 'Yasa' is as follows: 'Whoever takes a commodity three times and on all three

occasions becomes bankrupt (fails to fulfil their obligation), shall be sentenced to death after the third time.' By contrast, in the modern public procurement system, companies that fail to fulfil their contractual obligations are entered into a 'register of dishonest contractors' ('blacklist') and excluded from procurement. In Genghis Khan's time, however, chronic failure to fulfil obligations in the state and trade system was considered treason against the state and was punishable by death. Furthermore, under the Yassa, theft, fraud, and bribery in the process of supplying goods and weapons to the state (army) were punishable by a single penalty: death. The abuse of office by responsible officials was absolutely forbidden[10].

After the Mongol rule, during the Timurid period (14th–16th centuries), criminal matters were also resolved on the basis of Muslim law, the 'Temur's Lawbook', the customs and laws of the peoples of Central Asia and the wider region, and other sources. In particular, the Temur Tuzuklari placed great emphasis on state treasury provisioning, the secure procurement of weapons and food for the army, and the administration of the financial and supervisory system. Amir Timur adhered to strict rules in the expenditure of state funds, the regulation of markets, and the procurement of goods for state needs[11, 97 p.].

After Central Asia, including Uzbekistan, was conquered by Russia, its laws, including its criminal code, remained directly linked to those of Russia from 1864 to 1991. Before Central Asia was conquered by Tsarist Russia, the Emirate of Bukhara and the Khanates of Kokand and Khiva largely applied Sharia law. Documents issued under Sharia norms were almost identical[12, 97 p.].

As Central Asia was under Russian suzerainty for nearly 130 years and a large part of the region was incorporated into Russia, Russian influence on Central Asian legislation and document drafting was very strong. It is well-known that as early as the 4th century in Ancient Rome, the state imposed certain social duties and obligations on its citizens, including compulsory labour, transport work, a system called 'liturgies', which imposed the supply of goods for state needs and other similar duties, was widespread[13, 159-160 pp.]. As budget problems intensified and the money supply

contracted, the state began to intervene ever more in the free economy and, by threatening the harshest penalties, coerced participants in economic relations into engaging in one form or another of economic activity to carry out a particular form of economic activity. In general, the foundations of modern rules governing the supply of goods to state institutions in our country were first established in the 17th century. Initially, the primary aim of placing public orders was to reduce the costs of expending state funds and to prevent their misuse in a timely manner. One of the most effective mechanisms capable of addressing these problems was the award of public contracts on a competitive basis. Among the first general legal acts aimed at regulating public procurement was the decree of 7 July 1654, issued by Tsar Aleksey Mikhailovich, one can cite the Decree on setting the contract price for the delivery of sukhari and flour to the city of Smolensk. A specific price could be set for a specified quantity of the goods to be delivered. Under such terms, the existing contractor undertook the obligation to deliver the bread to the city of Smolensk and was, at the same time, completely exempted from state duties.

In other words, while auctions had not yet been established, their main features—the search for contractors, public tenders and the setting of terms—were beginning to emerge. In Russia, the normative regulation of legal relations concerning the conclusion of state contracts took on a systematic character in the early 18th century, during the reign of Peter I. Prior to Peter I's reforms, the regulations governing state procurement and the acceptance of promised bribes were of a permissive nature. The legislation of this period regulated the most significant contentious relations between the authorities and the populace. As P.V. Nikonoff rightly pointed out, "the legal norms primarily reflected acts that were directly connected with harming state interests or that had caused a particular resonance among the population, which could consequently lead to popular uprisings and thus posed a potential threat to the existing state order"[14, 96, 156 pp.]. O. V. Pokrovsky, for his part, noted that "in our country's history the areas of state governance traditionally most prone to corruption have been military supply, the system of state orders, and the civil service"[15, 22-23 pp]. Overall, during the reign of Peter I, the state and society were profoundly reformed. A system of state bodies was created, including the bodies responsible for implementing and overseeing state procurement. All state servants—military, civil and court officials — were divided into ranks and titles. State procurement became systematic, a clear for its implementation was established, and the principles of state procurement were defined.

The receipt of illegal rewards for the performance of official duties across all spheres of state activity continued to be widespread. Peter I began his fight against bribery in the areas that caused the greatest damage to the state and its treasury. Since Russia had taken part in numerous wars, it was necessary to strengthen the country's defence capabilities and develop its army and navy. In this context, under this policy, vast sums were allocated from the treasury and appropriated through state procurement. Illegal rewards for the exercise of official authority were also widespread in this sphere. In 1714, Peter I issued a decree 'On Prohibiting Bribes and Illegal Rewards for the Performance of Official Duties and Prescribing Punishments Therefor'. This decree was issued because 'many corrupt

practices had proliferated, among them the invention of contracts and other similar matters, which were ostensibly permitted, and some had even claimed that these practices were not prohibited, but they did not realise that any act which could cause damage and harm to the state is a crime,' was adopted[16].

According to legal historians, until 1917, there was an approach in Russia of broadly interpreting the concept of a 'public official'. As A.I. Yelistratov noted, during this period, "a public official was considered to be a person who performed a function recognised as necessary and compulsory for society in a given matter"[17]. Thus, liability was established for all officials in state bodies responsible for procurement who received illegal rewards for exercising their official authority, including bribes in the system of contracts for state needs. After the death of Peter I and until the Revolution of 1917, there were no significant changes in the procedure for conducting state procurements. In particular, during the reign of Anne of Russia, a new regulation for the Kammer-Kollegium was adopted in 1732, this stipulated that the procurement notice be published three times in a central newspaper, and also permitted merchants from other regions to participate in the procurement. During the reign of Elizabeth, in 1758, the 'Proviant Regulation' was adopted, which regulated advertising and the requirements for participants in state procurements. In 1775, Catherine II issued the 'Decree on the Institutions for the Administration of the Provinces'. It reflected new trends aimed at strengthening the position of the nobility. In accordance with this document, the task of conducting auctions was assigned to the newly established Treasury Chamber, and deadlines were set for each stage of the procurement process. In the 19th century, during the reign of Alexander II, the organisation of procurement became a very precise system, and merchants and entrepreneurs began to fulfil their obligations to the state responsibly.During the reign of Emperor Nicholas I, liability was established for breaches of procurement legislation. In 1830, the "Regulations on Obligations Arising from Tenders for Contracts and Supplies between the Treasury and Private Individuals" was adopted. It provided for liability for failure to fulfil a state order and prohibited collusion during auctions. These rules were later enshrined in the 1845 Statute on Criminal and Correctional Punishments.

One of the measures aimed at strengthening the fight against corruption, including bribery and violations in the field of public procurement, was the adoption of the 1845 Ulozhenie on Criminal and Corrective Punishments. In this first codified document, liability for bribery and violations in the field of public procurement was established. The Statute established liability for violations in the field of public procurement for the first time (Chapter 11 — "On the Crimes and Offences of Officials in Certain Special Areas of Service"). Section 6 — 'On the illegal acts of officials in concluding contracts for construction and supply, in accepting goods for the treasury, and in conducting public auctions').Among these offences was a provision that constituted a preliminary form of liability for bribing a contract service officer, a contract manager, and a member of the procurement commission. In particular, Article 487 of the Ulozheniye provided that 'contractors or suppliers with officials or other persons in a position of trust at the places where they conduct their business, liability was prescribed for 'any monetary

transactions' if these cash transactions were carried out in the course of fulfilling contracts concluded at these locations. Both the contractors (suppliers) and the officials (other public servants) were penalised. Furthermore, if a public official received money instead of the goods that were due to be delivered, liability was also established for failure to fulfil the contract. In such a case, the person receiving the goods was held equally liable as for bribery. It is clear from this that in the process of conducting state procurements, in all other cases of bribing officials and other persons in positions of trust, they were held liable for accepting a bribe under Articles 372–379 of the Ulozhenie.

Subsequently, as a result of the 1917 revolution, the country's economic system was abolished along with the system of state bodies. In their place came a new system of state administration and a planned economy to be implemented by state and party bodies, as well as state enterprises. The system of state (municipal) procurement, which had been established during the Russian Empire, ceased to function. However, the entire Soviet economy was built on the principle of planned state provision. During the operation of the Soviet economy, cases of embezzlement of state funds and bribery began to be detected in all sectors of production. The state authorities attempted to combat these phenomena, including through criminal-legal measures.

In this regard, between 1717 and 1922, the workers' and peasants' legislation, building on the laws of the Russian Empire, adopted an approach of broadly interpreting the concept of 'official person', and in practice this concept was equated with that of 'servant'. According to M. A. Romanenko, during this period "an official was considered a servant whose activity was connected with state administration, regardless of whether they were in state or civil service"[18, 354 p.]. According to M. V. Tishkina[19, 189 p.] from 1922 Until 1949, the concept of a public official in Russian criminal law was shaped by both broad and narrow interpretations. That is, on the one hand, a 'public official' was understood to be a person occupying a position in a state (Soviet) institution, enterprise, organisation or union, and involved in the performance of economic and administrative functions. On the other hand—as a result of a broad interpretation of this concept—individuals associated with the performance of professional functions and state duties were also included among officials. From 1949 until the early 1990s, a restrictive trend in the interpretation of this concept prevailed. In criminal law, a "public official" began to be understood as a person vested with authority, as well as those occupying positions related to organisational-management or administrative-economic functions. Functions related to professional duties and the performance of state tasks were excluded from the scope of this concept. From the early 1990s to the present day, a narrow interpretation of the concept of a public official has prevailed. Moreover, according to some legal scholars,[20] during this period a sectoral approach to understanding the institution of a public official has taken shape, and no single unifying concept common to all areas of law has been developed.

In criminal law, there are observed tendencies to stratify this concept. In Russia, with the existence of private property and the recognition of a diversity of organisational forms for enterprises, institutions and organisations, a distinction was in fact made

between officials (in the narrow sense) and persons performing management functions in commercial and other organisations. At present, the concept of a "public official" is associated with the performance of functions of a representative of authority, as well as with the performance of organisational-management or administrative-economic functions in the bodies and organisations specified in the Criminal of the Russian Federation. The list of such bodies and organisations varies according to the state and economic structure. After the 1917 revolution, the Bolsheviks who came to power launched an active campaign against bribery. This struggle began on 8 May 1918 with the adoption by the Council of People's Commissars of the RSFSR of the Decree on Bribery. The decree stated that "in the Russian Socialist Federative Soviet Republic, those serving in state or public service, who has received a bribe for performing an act falling within the scope of his duties or for assisting another official of an administration to perform an act falling within the scope of that official's duties, shall be punished by imprisonment for a term of not less than five years and by compulsory labour for the same term with imprisonment for at least five years and compulsory labour for the same term," as provided in.[21, 94 p.] As an aggravating circumstance in bribery, the official's belonging to the class of property owners and the use of the bribe to preserve or acquire property rights are specified.

The first Criminal Code of the RSFSR came into force on 1 July 1922. It contains Chapter II, entitled "Crimes of Office (Service)", and Article 110 defines exceeding one's official powers, abuse of office and dereliction of duty, while Article 128-Article for failing to fulfil the production plan, degrading the quality of the products being manufactured or wasting them, and Article 130 for failing to fulfil obligations under a contract with a state institution or enterprise. However, if such offences were committed in exchange for a bribe, alongside liability for the specified offences, general liability for accepting a bribe (Article 110) also arises. On 16 June 1926 the first Criminal Code of the Uzbek SSR was adopted and came into force on 1 July 1926. (This Code was also in force in the Tajik ASSR at that time.) This Criminal Code comprised a General Part and a Special Part, the General Part consisting of four sections and the Special Part of ten chapters. This Code was adopted in accordance with the "Basic Principles of Criminal Legislation of the RSFSR and the Union Republics," which was a federal law adopted on

31 October 1924. In Chapter III of the 1926 Criminal Code of the Uzbek SSR, entitled "Crimes of Office (Service)", liability for accepting a bribe (Article 117) and giving a bribe (Article 118) by an official is laid down. It does not specify to whom the bribe is intended. For the first time in the history of the Russian state, the concept of a public official was enshrined in legislation in a criminal-law sense. In Article 109 of the 1926 Criminal Code of the Uzbek SSR, in Note 1, 'officials' means persons occupying permanent or temporary posts in a state (Soviet) institution, enterprise, as well as those entrusted with certain duties by law. It was specified that 'officials' were to be understood as persons occupying permanent or temporary positions in a state (Soviet) institution, enterprise, or in an organisation or association entrusted by law with specific duties, rights and powers, and who possess the authority to perform economic, administrative, professional or other public functions. However, the 1926 Criminal Code of the Uzbek

SSR did not separately provide for offences committed in the sphere of state procurement. Responsibility was established for economic crimes in the national economy, and one of the sections of Article 58 was entitled 'inflicting damage', encompassing virtually all acts that in practice caused harm to the state.

For bribery, officials in all spheres of activity, including the national economy, were held liable under general provisions. Subsequently, Chapter VII of the 1960 Criminal Code of the Uzbek SSR—In the 'Crimes of Office', Article 173 establishes liability for a public official for accepting a bribe. The qualifying feature of this offence is that it is committed by a public official holding a position of responsibility; Article 174, on the other hand, provides for liability for giving a bribe where it is not clearly specified to whom the bribe is intended.

The 1960 Criminal Code of the Uzbek SSR established the concept of a 'public official', which remains in force to this day (only the list of organisations has been expanded in line with the demands of the times). In particular, according to the commentary on Article 170 of the 1960 Criminal Code of the Uzbek SSR, a person holding a position of authority, whether permanent or temporary, who performs the functions of a representative of power, as well as in state or public institutions, organisations or enterprises, permanent or temporary, organisational-managerial or administrative-a person who holds a position related to the performance of representative, organisational-managerial, administrative, or economic duties on a permanent or temporary basis, or a person who performs such duties in these institutions, organisations, and enterprises on the basis of special authorisation.

It is also noteworthy that, for the first time, liability has been established for the unlawful receipt of a reward by a non-official. In particular, under Article 156.2 of the 1960 Criminal Code of the Uzbek SSR, a non-official employee of an enterprise, institution or organisation who extorts from a citizen the performance of an act falling within the scope of his official duties or the carrying on of trade, public catering, unlawfully accepting a reward by extortion from a citizen for performing work within the scope of their official duties or for providing services in the fields of trade, public catering, household, communal, medical, transport or other services to the public, was a criminal offence under the 1960 Criminal Code of the Uzbek SSR. However, the 1960 Criminal Code of the Uzbek SSR did not provide for specific liability for what are now understood as "crimes in the field of public procurement." The eminent Russian criminologist According to the data cited by V. V. Luneyev, in the 1960s in the former Soviet Union crimes committed for selfish

purposes accounted for 40–45 per cent, and in 1989 this figure rose to 70 per cent.[22] Subsequently, this provision was not reflected in the 1994 Criminal Code either, because the Soviet economic system in force in 1960 was based not on market relations, but on a centralised planned economy and state provision. A system of "public procurement" and tenders did not exist. At that time, the misappropriation of funds, embezzlement or abuses were not considered violations of public procurement legislation, but rather as the embezzlement of socialist property in general, were punished under articles for forgery of office documents or abuse of office.

With the formation of modern market relations, public procurement became a

distinct sector. Therefore, only after subsequent special amendments were introduced to the current Criminal Code of the Republic of Uzbekistan, criminal liability for violating state procurement legislation was established for embezzlement or misappropriation (Article 167 of the Criminal Code), Concluding transactions contrary to the interests of the Republic of Uzbekistan (Article 175 of the Criminal Code), and breaching budgetary and budget-allocation discipline (Article 184¹-(m).) and other official offences are defined within the framework of bribery, giving and receiving bribes in connection with the procurement of goods, works and services to meet state needs. This is because the objective aspects of the constitutive elements of these crimes, in terms of both necessary and optional features, encompass socially dangerous acts committed during the implementation of the state procurements referred to above. However, as a result of the practice of criminal liability for bribery, giving bribes and receiving bribes in connection with the procurement of goods, works and services to meet state needs, a certain gap in the legislation has been identified.

Due to this loophole, a gap was identified in the legislation as a result of the practice of criminal prosecution for bribery, giving and receiving bribes, in connection with the procurement of goods, works and services to meet state needs. This gap exists because the legislation does not apply to individuals who are not officials and do not perform management functions in commercial and other organisations, and who procure goods, despite the social dangerousness of the acts of employees who received a bribe or illegal reward in connection with the procurement of goods, works and services being equal to that of the acts of officials and persons performing management functions in commercial and other organisations, there was no possibility of holding them criminally liable.

A retrospective analysis of the legislation in the field of public procurement allows for the following conclusion. Direct special liability for violating state procurement legislation was introduced by Law No. 666, signed by the President on

14 January 2021, which established administrative liability for breaches of state procurement legislation.[23] This law provided the legal basis for curbing corruption offences in the public procurement sector that threaten the state's financial and economic stability. The system of offences in the field of public procurement is divided into two types: in January 2021, Article 175 was added to the Code of Administrative Offences. Article 205⁸ was added to the Code of Administrative Offences, establishing fines for officials for offences such as violating the procedure for posting public procurement plans and schedules, and concealing affiliation and conflicts of interest in procurement[24].

Criminal liability: The Criminal Code of Uzbekistan does not contain a specific article for violations in the field of public procurement (for example, price manipulation, embezzlement, misappropriation of budget funds). Such acts are covered by Article 167 of the Code (Embezzlement or Misappropriation), Article 205 (Abuse of power or official authority) and Article 209 (Official forgery), which are qualified as general corruption and economic crimes, and criminal liability for which has existed since the adoption of the Criminal Code (since 1994) has been in force. Furthermore, the new legislative amendments adopted in June 2026 (Law No.

1155) have further strengthened liability for corruption offences related to public procurement and budgetary funds[25].

In particular, as a logical continuation of the measures to prevent violations in the field of public procurement, the President of the Republic of Uzbekistan's Decree No. 21 of 16 February 2026 "On the Uzbekistan—2030 Strategy" also provided the legal basis[27]. This decree provides the legal basis for the comprehensive introduction of public oversight to prevent the prices of goods and services from exceeding their market value, the achievement of a twofold reduction in violations of the requirements of legislative acts on public procurement, and the prevention of embezzlement of funds in the conduct of public procurement through direct contracting, the tasks of fully implementing public oversight to prevent the prices of goods and services from exceeding their market value, and ensuring that 100 per cent of regulatory legal acts are developed on the principle of 'corruption-free legislation' are set out. The theory and historical development of public procurement show that this institution is of strategic importance in the economy, and its effective operation is only ensured when the legal framework is comprehensive. Clear regulations, fair tenders and transparency are the fundamental pillars of an effective public procurement system. Between 2015 and 2025, the public procurement system in Uzbekistan was fundamentally reformed. The digitisation process, the introduction of an electronic trading platform and the measures taken to increase the transparency of tender procedures have served to enhance the system's efficiency. However, practical analysis shows that despite improvements in the legal framework, the number of violations and the damage they have caused to the state budget have tended to increase.

In 2018, after the launch of the Single Information Portal for Public Procurement, procurement data became publicly available and the scope for statistical analysis expanded. In 2021, the Law on Public Procurement was adopted. The law introduced important innovations such as transparency in procurement processes, the expansion of the competitive environment and the mandatory requirement for electronic tenders. At the same time, legal loopholes and practical issues within the system have had a serious impact on the dynamics of violations. The lack of sufficient qualifications among procurement department staff in most ministries and agencies, the varied interpretation of tender requirements, and the overlap of powers among regulatory bodies reduced the system's efficiency. The most common violations in public procurement: splitting procurement into lots to evade thresholds, overpricing goods by 20–40% above market value, tailoring tender requirements to specific companies, supplier breach of contract, and concealing conflicts of interest. An analysis of the situation in Uzbekistan indicates that although economic development and digitalisation have yielded positive results, violations in the public procurement sector remain a serious problem. The lack of clear criminal liability, ineffective oversight, and weaknesses in tender procedures increase the risk of corruption in the sector. This underscores the need to enhance criminal-legal mechanisms. Violations in the field of public procurement are among those offences that inflict serious harm on the public interest, the state budget, and financial discipline. From the perspective of criminal law doctrine, offences in this category differ

from simple administrative errors, as they are committed with the aim of misapplying state funds, creating conflicts of interest, or for personal enrichment. Therefore, the effective and precise operation of the criminal liability institutions for offences committed in the field of public procurement is also of great importance for state security. In A. Yurchenko's article, 'State Procurement: Contemporary Problems'—'state procurement should increase the efficiency and effectiveness of the process of purchasing goods, works, and services, ensure openness and transparency in the procurement of these purchases, as well as prevent corruption and other abuses in this area,'[28] and proposes an electronic and transparent platform as a solution. The Criminal Code of the Republic of Uzbekistan does not contain any provisions specifically regulating offences committed in the public procurement process. However, practice shows that the question of which specific article to apply when qualifying offences committed in procurement processes is often contentious, leading to different assessments of the same situation in court practice.The proposed offence of "Violation of State Procurement Legislation" has the following elements:

- object — the interests of the state and society, the state financial discipline, and the targeted expenditure of budget funds;
- immediate object — the principles of equality, competition and transparency in the procurement process;

The objective aspect comprises actions such as causing material harm to the state through a breach of the law, violating tender requirements, artificially inflating prices, and concealing conflicts of interest.

The subject of offences in public procurement is usually an employee of a state organisation; a member of the tender commission; a person materially responsible; an official authorised to spend budget funds; and, in some cases, the head of the supplying organisation.

The subjective aspect is often intentional, meaning it is committed with the aim of acquiring personal wealth, assisting acquaintances, or concealing conflicts of interest. There are also cases of negligence, for example incorrect preparation of tender documents, but these do not amount to criminal liability.

The public procurement system is one of the main legal mechanisms for ensuring economic stability and the effective use of the state budget in every country.

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

ATTORNEY'S PARTICIPATION IN THE PRE-TRIAL STAGE OF CRIMINAL PROCEEDINGS: LEGAL AND PRACTICAL ASPECTS

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Abstract. *The article analyzes the participation of an attorney in the pre-trial stage of criminal proceedings, their legal status, procedural powers as a defense counsel and representative, as well as specific practical issues regarding the exercise of defense. The study employed formal-legal, systematic, logical-legal, and comparative-legal methods, as well as the analysis of practical situations. It is substantiated that the early involvement of the lawyer, ensuring confidential communication with the client, collecting and presenting evidence, participating in matters regarding the appointment of an expert examination and the evaluation of an expert opinion, as well as an active stance on preventive measures, are key conditions for effective protection. It is shown that the exercise of the powers granted by law should not be limited to the formal presence of an advocate: it is advisable to formalize procedural positions in writing through petitions, complaints, comments, and other documents provided for by law. Taking into account international standards and foreign practice, proposals have been formulated to further strengthen the independence and efficiency of advocacy at the pre-trial stage.*

Keywords**:** *lawyer, defense counsel, criminal process, pre-trial proceedings, procedural rights, evidence, expert examination, preventive measure.*

In Clause II.2.2. of the "Concept for Improving Criminal and Criminal Procedure Legislation of the Republic of Uzbekistan" approved in accordance with the appendix by the Resolution of the President of the Republic of Uzbekistan dated May 14, 2018, No. PP-3723 "On measures for the radical improvement of the system of criminal and criminal procedural legislation" it is specifically noted that through the strengthening of procedural rights and powers of lawyers, it is necessary to implement the principle of mutual dispute between the parties, ensure their genuine independence, and expand the grounds for cases in which the participation of defense counsel in a criminal case is mandatory.

The issues of clarifying the powers and defining the legal status of advocacy structures, as well as ensuring the equality of procedural rights of the prosecution and defense parties in criminal proceedings, are defined as the main directions for further reforming the institution of advocacy in the Decree of the President of the Republic of Uzbekistan dated May 12, 2018, No. PD-5441 "On measures to fundamentally increase the efficiency of the institution of advocacy and expand the independence of lawyers" which testifies to the fact that these pressing issues are at the center of the country's leadership's attention and are of paramount importance.

The legal basis for the participation of a lawyer in criminal cases is the relevant norms of the Constitution of the Republic of Uzbekistan and the Criminal Procedure Code. In particular, the

Constitution of the Republic of Uzbekistan stipulates that the accused is guaranteed the right to defense; the right to receive qualified legal assistance at any stage of investigation and court proceedings. The main legal grounds for an advocate's participation in criminal proceedings are established in Article 53 and other articles of the CPC, as well as specific laws, and clarifications are provided in the resolutions of the Plenum of the Supreme Court. II. Participation of an attorney in the process of inquiry and preliminary investigation in criminal cases. The participation of a lawyer in criminal proceedings is of great importance in protecting the rights and freedoms of the individual, ensuring legality, and achieving a fair trial. The participation of a lawyer in criminal cases is one of the primary means of ensuring not only the right of the suspect or accused to defense but also the rule of law during investigative and judicial proceedings. The norms of the CPC grant the lawyer the right to participate in all stages of the criminal process. To participate in a criminal case as a defense counsel, an attorney must have a contract for the provision of legal assistance concluded between them and the person under their protection, and must also present an attorney's certificate and warrant. Appointment of defense counsel. In certain cases, when the participation of a lawyer is mandatory by law, an attorney may be appointed by the inquirer, investigator, or court, unless the suspect, accused, or defendant has entered into a contract with the lawyer themselves. This is especially important in cases where the individual is physically or mentally unable to self-protect. An attorney may participate in the case from the moment the suspect is detained, as well as from the moment the person is declared a suspect or a preventive measure in the form of detention is applied to them. This allows the lawyer to protect the rights of his client from the very beginning. Article 53 of the Code of Criminal Procedure grants the following rights to an attorney as a defense counsel:

Defender:

• to know what the person whose interests are being defended is suspected or accused of;

• to participate in a case after presenting a lawyer's certificate and a warrant confirming their competence to conduct a specific case;

• to participate in the interrogation of a suspect, to be present during the indictment of a person, and to participate in the interrogation of the accused, as well as in other investigative actions conducted with their participation, and to ask questions to suspects, accused persons, witnesses, experts, and specialists; to participate in other investigative actions with the permission of the inquirer or investigator;

• to submit written comments on the conduct of the investigative action in which they participated;

• collection and presentation of evidence in accordance with part two of Article 87 of this Code;

• to review documents related to procedural actions conducted with the participation of the suspect or accused, and after the conclusion of the inquiry or preliminary investigation, to review all materials of the criminal case and extract necessary information from them, to make copies of materials and documents using technical means at one's own expense, or to record the information contained therein in another form;

to familiarize oneself, in the manner prescribed by law, with information containing state secrets, commercial secrets, or other secrets if it is necessary for the implementation of defense; preliminary hearing of a case by a court

participate as a party in the proceedings and in the trial;

• appeal against the actions and decisions of the inquirer, investigator, prosecutor, and court;

• to familiarize themselves with the minutes of the court session and express their opinions on them; to learn about the complaints and protests filed in the case and to submit objections to them; to participate in the sessions of the court of appellate, cassation, and revision instances.

If a suspect, accused, or defendant is held in custody or under house arrest, the defense counsel has the right to meet with them privately without the permission of the state bodies and officials responsible for the criminal proceedings, without limiting the number and duration of meetings.

Forms and powers of participation of an advocate at the pre-trial stage

The status of a lawyer in criminal proceedings differs depending on the procedural status of the person being protected. In practice, an advocate may act as a defense counsel, representative of the victim, civil plaintiff, or civil defendant, as well as an advocate for a witness.

Attorney status	Main procedural task	Essential powers
Defender	Protection of the rights and interests of a suspect, accused, or defendant	Participation in interrogation and investigative actions, asking questions, collecting evidence, filing motions and complaints
Representative	Representing the interests of the victim, civil plaintiff, or civil defendant	Submit evidence, support or dispute a claim, file an appeal
Witness advocate	Protection of the rights and legitimate interests of a witness	Participate in the interrogation, provide advice, ask questions, and enter objections into the protocol

The powers of a lawyer as a defense counsel are the most extensive. He may participate in the case from the moment the suspect is detained or from the moment the person's freedom of movement is actually restricted. There are also cases where the mandatory participation of a defense counsel is provided for by legislation, covering cases involving minors, persons struggling to defend themselves independently, persons who do not speak the language of the court, crimes for which life imprisonment may be imposed, several persons with conflicting interests, cases involving a state or public prosecutor, and other circumstances established by law.

The active role of the defense counsel in the collection of evidence is of particular importance. In accordance with Article 87 of the CPC, an attorney may interview persons who possess information relevant to the case and, with their consent, obtain written explanations, as well as send inquiries to state

bodies, enterprises, institutions, and organizations to obtain certificates, character references, explanations, and other documents. These powers expand the evidentiary capabilities of the defense and ensure the practical expression of the principle of procedural adversarial proceedings.

Attendance of a lawyer as a representative

In criminal proceedings, an advocate may also act as a representative of the victim, the civil plaintiff, and the civil defendant. The main purpose of representation is the professional representation and protection of the rights and legitimate interests of the relevant procedural participant. As a representative of the victim, the lawyer enjoys the rights to present evidence, file motions and challenges, participate in investigative actions, review case materials, and appeal procedural decisions.

As a representative of a civil plaintiff, the lawyer has the authority to initiate and maintain a civil claim, present evidence, request measures to secure the claim, review the case materials, and appeal judicial acts related to the civil claim. The representative of the civil defendant enjoys the right to know the content of the accusation and civil claim, to object to the claim, and to provide explanations and evidence.

The witness's lawyer and their procedural guarantees

A witness's lawyer has a special procedural status in a criminal case. He is involved in the case from the moment the witness is summoned to protect the rights and legitimate interests of the witness and to provide them with the necessary legal assistance. The witness's lawyer may participate in the interrogation process, provide brief advice to the witness, ask questions with the permission of the person interrogating them, and at the end of the interrogation, demand that the witness's objections regarding the violation of their rights be recorded in the protocol.

The significance of this institution lies in the fact that, although a witness is not a defendant by procedural status, their testimony can subsequently be evaluated as evidence. Therefore, the legal assistance provided to the witness serves to ensure the voluntariness, legality, and procedural guarantees of their testimony.

The importance of a confidential meeting with a protected person

One of the most important practical tasks of a lawyer at the pre-trial stage is to hold a confidential meeting with the defendant without the participation of the investigative body or other officials. Such a meeting allows the lawyer to determine the true state of the case from the first source, understand the client's position, explain their rights and obligations, prepare for investigative actions, and develop a defense strategy.

In practice, the lawyer may be limited to a brief interview in the investigator's office or in the presence of other officials. Such a situation cannot be considered a completely secret meeting. The content of the defense requires free and reliable communication between the defense counsel and the defendant. Therefore, it is advisable for the lawyer, if necessary, to request in writing the creation of conditions for a confidential meeting.

In one of the practical situations, the lawyer was unable to meet with a person sentenced to administrative arrest in a special reception room before the court session. As a result, the person was not aware of the content of the filed complaint, what was required of him and what procedural position he should take in the court session. This situation indicates that a lawyer's meeting with the

defendant before the start of a trial or investigative action is necessary not only from an ethical perspective but also from the perspective of the effectiveness of the defense.

The role of the lawyer in appointing an expert examination and evaluating the expert opinion

In criminal proceedings, expertise is often used as a means of clarifying issues requiring specialized knowledge important to the case. Therefore, the active participation of the defense at the stage of appointing the expert examination may influence the subsequent evaluation of the evidence.

Article 179 of the CPC provides for the rights of the suspect, accused, and defendant related to the appointment of an expert examination. They have the opportunity to familiarize themselves with the decision to appoint an expert examination, challenge or recommend an expert, ask additional questions, and exercise other procedural rights. In this regard, the lawyer must document their timely familiarization with the decision to appoint the expert examination and, if necessary, submit additional questions and objections in writing.

The lawyer's activities do not end even after the expert opinion is received. The conformity of the conclusion with the questions posed, the completeness of the research, the competence of the expert, the methods used, the sufficiency of the initial data, and the logical validity of the conclusions must be verified. If procedural rights are violated during the appointment of an expert examination or if there are reasonable objections to the content of the conclusion, it is advisable to record them in the relevant procedural documents.

The active procedural position of a lawyer regarding preventive measures

Preventive measures are measures of procedural coercion that directly affect the rights and freedoms of a person in criminal proceedings. The active position of the lawyer is of particular importance when applying measures such as detention and house arrest.

According to the relevant provisions of the Criminal Procedure Code, there are procedural mechanisms for the application, modification, or cancellation of preventive measures. In particular, the CPC provides for the procedure for appealing decisions related to the application of a preventive measure in the form of detention, as well as the possibility of filing a motion to change or cancel the preventive measure. In each specific case, the lawyer must form a reasoned position by assessing the necessity and grounds for detention, the possibility of applying alternative preventive measures, the social and family status of the individual, and their procedural behavior.

Even in international standards, access to a lawyer is considered an important guarantee during the initial period of a person's freedom restriction. UN principles provide for ensuring access to legal assistance at all stages of criminal proceedings. The practice of the European Court of Human Rights shows the need for a real and effective activity of a lawyer at the initial stage, including the organization of defense and participation in the collection of evidence.

The results of the study show that the presence of a lawyer in criminal proceedings does not in itself mean effective protection. Effectiveness directly depends on how actively a lawyer exercises procedural rights, when they formulate a defense strategy, and how they document their position.

The first important thing is for the lawyer to get to work as early as possible. International standards and European judicial practice show

that restricting access to a lawyer at the initial stage can weaken the content of the right to defense.

In national practice, the active participation of a lawyer in the initial period after a person's detention or actual restriction of their liberty serves to prevent irreparable procedural consequences in the future.

The second important issue is the expression of the lawyer's procedural activity in writing. The legislation grants the lawyer the right to file motions, complaints, challenges, objections, and other procedural appeals. Written recording of the exercise of such rights is important for subsequently pointing out procedural violations in court, evaluating evidence, and justifying the defense's position.

The third issue is the lawyer's evidentiary activity. The defense must form its own evidentiary base through the methods provided by law, rather than linking evidence solely to the activities of investigative bodies. Foreign studies also note the influence of the quality of defense on procedural results, as well as the relationship between organizational conditions and the incentives of lawyers.

The fourth issue is the adherence of the lawyer to professional standards. In their activities, an attorney is obliged to comply with the requirements of legislation, the rules of professional ethics, attorney's secrecy, and the attorney's oath, and to use the means and methods provided by law to protect the rights and legitimate interests of the client. In this sense, establishing minimum practical standards for a lawyer in criminal cases and adhering to these standards in each case will help unify the quality of defense.

The fifth issue is the lawyer's attitude toward the examination and preventive measures. In these two areas, the passive position of the lawyer may later limit the possibilities of defense. An important part of a lawyer's professional activity should be familiarization with the decision to appoint an expert examination, formulating questions, expressing an attitude toward the expert, critically analyzing the conclusion, and filing a reasoned motion or complaint regarding the preventive measure.

Foreign scientific research also shows that the right to access a lawyer and the availability of effective remedies for its violation determine the real value of the right. For example, Anneli Soo found that the means used when the right to a lawyer is violated in the countries of the European Union differ significantly. This situation shows that in the national system, it is necessary not only to declare the procedural rights of a lawyer, but also to clearly define the consequences of their violation.

Furthermore, an empirical study by Huang, Chen, and Lin showed that the type of defense attorney can influence performance and defense strategy. This conclusion means that it is also important for national practice to ensure the lawyer's professional qualifications, independence, and opportunities to form a defense strategy.

The participation of a lawyer at the pre-trial stage of criminal proceedings is not a formal form of ensuring a person's right to defense, but a practical guarantee of the principles of legality, adversarial proceedings, and equality of the parties in criminal proceedings. The effective participation of a lawyer should not be limited to physical participation in investigative actions, but should include the active search and presentation of evidence, analysis of procedural documents, timely recording of offenses and consistent implementation of the defense strategy.

Based on the research, the following proposals can be put forward: first, to

strengthen practical guarantees for ensuring real and unhindered access to a lawyer from the first minutes of a person's actual detention or restriction of liberty; second, to improve the organizational mechanisms for ensuring a confidential meeting between the defense counsel and the defendant; third, to develop methodological recommendations for the uniform application of the lawyer's powers to collect and present evidence in practice; fourth, to strengthen practical standards for the participation of a lawyer in appointing an expert examination and evaluating an expert opinion; fifth, to develop standard methodologies for justifying a lawyer's complaints and petitions regarding preventive measures.

Furthermore, it is advisable to widely implement the professional standards adopted by the Chamber of Advocates for participation as a defense counsel in criminal cases, ensure regular professional development for lawyers, and develop their practical skills at the pre-trial stage. Such an approach serves to fill the procedural rights of a lawyer with real content, improve the quality of defense, and strengthen the guarantees of fair trial.

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

INTERNATIONAL COOPERATION IN OBTAINING ELECTRONIC EVIDENCE: THE EUROPEAN PRODUCTION AND PRESERVATION ORDERS

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Abstract. *The expansion of digital technologies has produced a criminological reality in which the territorial element of criminal investigation is blurred: the evidence needed to prosecute both traditional offences committed online and cybercrime in the strict sense is volatile, is frequently stored outside the State conducting the proceedings and is held by private service providers. The article examines how international and, above all, European Union law has responded to this challenge, with the aim of assessing whether the new instruments reconcile the effectiveness of criminal prosecution with the fundamental rights of the persons concerned. The study applies the dogmatic-legal method, together with the historical and comparative analysis of the successive instruments on cross-border evidence, from the Council of Europe Convention on Cybercrime to the European Union regulation of 2023 on European Production Orders and European Preservation Orders and the accompanying directive on designated establishments and legal representatives. The main finding is that the principle of mutual recognition has been reshaped in a novel way, since these orders are addressed directly to private addressees rather than to the authorities of another State, which allows drastically shortened time limits but displaces onto private actors functions traditionally reserved to public authorities. The results are of practical use to judges, prosecutors and defence lawyers who must issue, enforce or challenge such orders. The article concludes that the system of safeguards is valuable but unevenly distributed, and that its real value will depend on its application in conformity with the Charter of Fundamental Rights.*

Keywords: *judicial cooperation in criminal matters; mutual recognition; cybercrime; electronic evidence; European Production Order; European Preservation Order; service providers; fundamental rights.*

Introduction

It was in the last decade of the twentieth century that a decisive impetus was given to the simplification of judicial cooperation in Europe. The Treaty of Amsterdam of 2 October 1997 and the Tampere European Council of 15–16 October 1999 are the milestones of the gradual construction of the Area of Freedom, Security and Justice; yet neither mentions, at least expressly, the need to provide assistance in respect of electronic evidentiary material, even though the Tampere conclusions already required the application of the principle of mutual recognition to pre-trial decisions so that the competent authorities could act quickly to obtain evidence.

In the twenty-odd years since then, the reality on which procedural rules operate has evolved enormously. The changes in the criminological landscape are worldwide in scope, and this must be borne particularly in mind when dealing with electronic evidence, since the territorial element becomes blurred and problems proliferate for which the traditional rules are obsolete [1, p. 325]. The problem therefore extends far beyond the European Union, but this organisation of special integration has shown a determination

to place itself in the vanguard, adopting rules that significantly update the provisions governing collaboration between bodies subject to different sovereignties.

The objective of this article is to analyse the regulation of cooperation in obtaining electronic evidence located outside the State conducting the criminal proceedings, and in particular the European Production Order and the European Preservation Order created by Regulation (EU) 2023/1543 of 12 July 2023, in order to determine whether they achieve an effective prosecution of contemporary crime without validating violations of the fundamental rights of the persons involved. That criterion is hardly original, but it cannot be relinquished: the concern that the Europeanisation of criminal justice might endanger the rule of law was voiced early [2] and remains the yardstick for evaluating every step taken to bring procedural regulation up to date.

Scholarship has long identified the evidentiary consequences of the digital transformation of crime [3, pp. 34–39; 4, p. 4] and the procedural problems of cybercrime [5; 6, pp. 22–29], while the European instruments have been examined mainly at the proposal stage [1; 11; 14; 15]. This article examines the texts as finally adopted.

Materials and Methods

The research is based on the dogmatic-legal method, applied to the analysis of the international and European instruments governing cross-border cooperation in evidentiary matters: the Council of Europe Convention on Cybercrime, done at Budapest on 23 November 2001, and its Additional Protocol of 28 January 2003; Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution of orders freezing property or evidence; Council Framework Decision 2008/978/JHA of 18 December 2008 on the European evidence warrant; Directive 2014/41/EU of 3 April 2014 regarding the European Investigation Order; Regulation (EU) 2023/1543 of 12 July 2023 on European Production Orders and European Preservation Orders for electronic evidence in criminal proceedings; and Directive (EU) 2023/1544 of 12 July 2023 laying down harmonised rules on the designation of designated establishments and the appointment of legal representatives.

This normative analysis is combined with the historical method, tracing the evolution from intergovernmental mutual assistance to mutual recognition and from analogue to digital evidence, and with the comparative method, contrasting the Budapest Convention with Union law and the new orders with the European arrest warrant and the European Investigation Order. The 2018 Commission proposals and the final 2023 texts are also compared in order to identify the systematic and substantive changes introduced during the legislative process. Doctrinal sources and the SIRIUS reports contextualise the findings.

Results

3.1. The new socio-criminal reality

The expansion of technology has been abundantly exploited to commit offences of a highly heterogeneous nature. Even without entering the deep or dark web, the most immediate layers of the digital environment are propitious for crime, and their continuous transformation complicates prosecution to the extent that the legislator has sufficient reflexes to criminalise such conduct [3, pp. 34–39]. All of this has direct consequences in the field of evidence: as has been observed, “traditional” natural and physical elements of proof have been joined by further evidentiary elements

inseparably connected to a computer or a network [4, p. 4].

The Budapest Convention contains no common definition of cybercrime; it requires signatory States to criminalise specific acts grouped in Articles 2 to 13 (offences against the confidentiality, integrity and availability of computer data and systems; computer-related and content-related offences; copyright infringements), later extended by the Additional Protocol on racist and xenophobic acts. Scholarship has proposed broader concepts: "computer crime" covers both traditional offences committed through the Internet and offences against computing itself, and may be grouped into economic cybercrime, intrusive crime and cyber-espionage or cyber-terrorism [5, p. 41]. Classifications vary according to the criterion chosen [3, pp. 47–139].

For the purposes of this study a broad conception is preferable, since the mere use of electronic channels—common to all such conduct—produces evidentiary peculiarities that must be taken into account when collecting sources of evidence in order to attribute criminal activity to specific persons, and the features of mass cybercrime point to the need for new investigative methodologies [17, pp. 197–206]. Cybercrime raises evident difficulties in determining authorship, in applying rules on jurisdiction designed for simpler contexts and even in identifying victims. Certain criminological features aggravate these difficulties [6, pp. 22–29]: computer crime can be committed with a mobile phone; the presence of the digital sphere in daily life is ever broader and more trusting; and the volume of data stored in the cloud is gargantuan, which increases the risks to everyone's rights and even to the constitutional position of the individual in a rule-of-law State [7, pp. 228–238].

3.2. Cooperation under the Budapest Convention

Effective prosecution of such extraterritorial crime requires channels of assistance from other States. The Budapest Convention—the first international treaty to address computer crime by harmonising national laws and increasing cooperation between nations [8, p. 168]—stresses in its preamble that international cooperation must be strengthened, fast and operative. Chapter III urges the Parties to cooperate to the widest extent possible for investigations concerning offences related to computer systems and data or for the collection of electronic evidence of any offence (Article 23), through extradition and, above all, mutual assistance (Articles 25–26).

Article 25(4) subjects mutual assistance to the law of the requested Party, which respects its sovereignty; Article 27(4) adds flexibility by providing that, absent applicable treaties, requests are executed according to the procedures specified by the requesting Party unless incompatible with the law of the requested Party. Of particular interest are the provisions on expedited preservation and disclosure of stored data (Articles 29–30), trans-border access to open-source data or with lawful consent (Article 32), real-time collection of traffic and content data (Articles 33–34) and the 24/7 Network of contact points (Article 35). The Convention nevertheless relies on central authorities (Article 27), and confidentiality remains optional for the requested Party (Article 28).

3.3. The evolution of European Union instruments

The first Union documents on procedural cooperation reflected the prior work of the Council of Europe, but a sui generis organisation advancing towards an ever closer union [9, pp. 47–48; 10, p. 39] had to take decisive steps towards greater fluidity among "friendly States" [18, p. 53]. That improvement is summed up in the principle of mutual recognition, formulated at Tampere as the cornerstone of European cooperation.

In the evidentiary field the evolution began with Framework Decision 2003/577/JHA on the freezing of evidence and continued with Framework Decision 2008/978/JHA on the European evidence warrant, limited to objects, documents and data and thus leaving out personal evidence. The imperfection of that regulation led to the European Investigation Order of Directive 2014/41/EU, a valuable though debated instrument [16] by which a judicial authority of the issuing State may have investigative measures carried out in the executing State to obtain evidence. But the EIO still belonged to the analogue sphere: its time limits did not correspond to the speed at which offences are committed on the Internet [11, p. 27], and differences in investigative powers between legal systems may render evidence acquired in one country inadmissible in another [12, p. 29].

Hence, on 17 April 2018, the Commission presented proposals for a Regulation on European Production and Preservation Orders (COM(2018) 225 final) and a Directive on legal representatives (COM(2018) 226 final), reaffirmed in the Cybersecurity Strategy for the Digital Decade (JOIN(2020) 18 final). The third SIRIUS report confirmed the exponential growth of digital channels during the pandemic, exploited by cybercriminals, and recommended capacity-building on the instruments for obtaining electronic data from other jurisdictions [13]. After a far from simple legislative process, Regulation (EU) 2023/1543 and Directive (EU) 2023/1544 were adopted on 12 July 2023.

3.4. The European Production Order

Article 3 of the Regulation defines the European Production Order as a decision ordering the production of electronic evidence, issued or validated by a judicial authority of a Member State and addressed to a designated establishment or a legal representative of a service provider offering services in the Union, located in another Member State. "Electronic evidence" comprises subscriber, traffic or content data stored by or on behalf of a service provider at the time of receipt of the certificate. The complexity of the subject is obvious: twenty-one definitions are set out. The order may be issued only in criminal proceedings, including those against legal persons, and for the execution of a custodial sentence of at least four months not imposed in absentia where the convicted person has absconded, and only for data relating to services offered in the Union—which will require new formulas of cooperation with third States [14, p. 294].

The subjects are the issuing and enforcing States and authorities, as in other cooperation instruments, but Article 4 graduates competence: an order for subscriber data or for data requested solely to identify the user may be issued by a judge, court, investigating judge or public prosecutor, or by another investigating authority subject to validation by one of them; an order for traffic or content data may be issued only by a judge, court or investigating judge, or by another authority

validated by them—the public prosecutor disappears in these more invasive cases. The reference to "a judge" and to "an investigating judge" as if they were different personnel is a striking inaccuracy, present in the English text too. In urgent cases an order for subscriber or identification data may be issued without prior validation, which must be sought within 48 hours. Article 7 provides that the order is transmitted directly to the designated establishment or legal representative, a genuine novelty since it is not addressed to any authority of the enforcing State [15, p. 157]; only in urgent cases, if the addressee does not react, may it be sent to any other establishment or representative of the provider in the Union.

The Regulation speaks of "conditions", but they operate as prerequisites whose absence grounds refusal (Article 5(1)). Substantively, the order must be necessary and proportionate, and a similar measure must be available in the issuing State for the same offence in a comparable domestic situation, in line with Article 6(1) of Directive 2014/41/EU. As to objective scope, an order for subscriber or identification data may be issued for all criminal offences—without even the twelve-month threshold of the European arrest warrant—whereas an order for traffic or content data is confined, through cross-references complicated for the interpreter, to offences punishable by a maximum custodial sentence of at least three years, to the offences defined in Directives (EU) 2019/713, 2011/93/EU and 2013/40/EU when committed by means of an information system, and to the terrorist offences of Directive (EU) 2017/541. Formally, Article 5(5) lists the information the order must contain (authorities, addressee, user or identifier, category and period of data, applicable criminal provisions, reasons for urgency, grounds of necessity and proportionality and a summary of the case).

The order is transmitted by means of a certificate (EPOC, Annex I) translated where necessary (Article 9). For traffic and content data the issuing authority must simultaneously notify the enforcing authority, unless the offence was committed in the issuing State or the person concerned resides there. The addressee must preserve the data and produce them within ten days, or within eight hours in urgent cases; the enforcing authority may raise grounds for refusal within ten days or 96 hours respectively. Annex III governs the dialogue when the certificate is defective, immunities or press freedom are affected or a de facto impossibility exists, the issuing authority responding within five days. Communication takes place through a secure decentralised IT system (Article 19) and a duty of confidentiality applies.

The grounds for refusal, whose systematic placement in the proposal was debatable and confusing, are now divided between Article 12 and Article 16 with non-identical content, but a general principle in favour of cooperation underlies them and they are exhaustively listed. The enforcing authority may object where the data are protected by immunities or privileges or by rules on criminal liability related to press freedom, where there are substantial grounds to believe on the basis of specific and objective evidence that enforcement would violate a fundamental right under Article 6 TEU and the Charter, where enforcement would breach ne bis in idem, or where the conduct is not an offence in the enforcing State unless it falls within the 32 categories of Annex IV punishable by at least three years; before doing so it must consult the

issuing authority, which may adapt or withdraw the order. If the addressee does not comply, the issuing authority may request enforcement (Article 16), and the addressee may object on the grounds of paragraph 4: lack of competent authority, offence outside the scope, de facto impossibility or manifest errors, data not stored at the time of receipt, service not covered, immunities and privileges, and manifest violation of fundamental rights—although, a sensu contrario from Article 16(3)(a), this last ground belongs exclusively to the enforcing authority.

As safeguards, Article 15 obliges Member States to lay down effective, proportionate and dissuasive pecuniary sanctions for non-compliance. Chapter IV establishes a review procedure where the addressee considers that compliance would conflict with the law of a third country: if the issuing authority intends to uphold the order, its competent court assesses whether that law applies and prohibits disclosure, weighing the interests protected, the connections of the case with each territory, the interests of the investigating State and the consequences for the provider. Article 18 guarantees effective remedies to all persons whose data have been requested, available to suspects and accused persons during the criminal proceedings and allowing challenges to the legality, necessity and proportionality of the measure, in addition to those of Directive (EU) 2016/680 and Regulation (EU) 2016/679.

3.5. The European Preservation Order

No less important than obtaining evidence is securing it for a subsequent request through any channel of cooperation. The European Preservation Order is a binding decision compelling a designated establishment or legal representative located in another Member State to preserve electronic evidence in view of a subsequent request for production, in the line of Framework Decision 2003/577/JHA and of the expedited preservation already provided in the Budapest Convention. It applies to the same proceedings and the same data as the production order, but its subjective regime is simpler: it may be issued, for any category of data, by a judge, court, investigating judge or public prosecutor, or by another investigating authority subject to their validation. The assessment of necessity and proportionality is here related to preventing the removal, deletion or alteration of data, and the order may be issued for all offences for which it would be available in a similar domestic case. The preserved data may later be requested by mutual legal assistance, an EIO or a European Production Order.

The order is transmitted through a certificate (EPOC-PR, Annex II); the addressee must preserve the data without undue delay for sixty days, extended if the issuing authority confirms that a request for production has been launched. The consultation mechanisms of Annex III apply, and the addressee may object only on exhaustive grounds parallel to those of the production order. Pecuniary sanctions apply equally, but the provisions on effective remedies and on the review of conflicting obligations are expressly confined to production orders.

3.6. Designated establishments and legal representatives

Directive (EU) 2023/1544 supplies the addressee that the orders presuppose. Its Article 3 obliges Member States in which providers offer services to ensure that they designate at least one addressee for the receipt of, compliance with and enforcement of decisions and orders for gathering electronic evidence under the Regulation, Directive

2014/41/EU and the 2000 Convention on Mutual Assistance, as well as under national law. Providers established in the Union must designate one or more establishments; those not established must appoint legal representatives; and providers in non-participating Member States must do the same if they offer services in participating States.

Discussion

The principle of mutual recognition, the driving force of European cooperation since Tampere, continues to bear fruit, but has been reshaped in a way earlier instruments did not anticipate. In the European arrest warrant, the freezing order and the EIO the relationship was always between authorities; the new orders are addressed to private addressees, which is what makes it possible to reduce time limits to ten days or eight hours, but also transfers to service providers assessments—on immunities, on manifest errors, on de facto impossibility—that were traditionally reserved to public authorities. This is the most significant novelty of the system [15, p. 157] and its principal risk.

Compared with the Budapest Convention, the Union has dispensed with central authorities, with the political-offence exception and, for subscriber data, with any threshold of seriousness, in line with the reasonable widening of mutual recognition beyond serious crime. In exchange it has strengthened guarantees the Convention left optional: confidentiality, judicial reservation for traffic and content data, notification of the enforcing authority, exhaustive grounds for refusal including a fundamental-rights clause, and effective remedies. The comparison between the 2018 proposal and the 2023 text also shows improvements—the correction of the confusing placement of the grounds for refusal, the addition of a four-month threshold for enforcement of sentences—together with persisting defects: the inaccurate terminology on judicial authorities, the complicated cross-references delimiting the scope for traffic and content data, and the duplication of grounds for refusal in two chapters with non-identical content.

Two shortcomings deserve emphasis. First, the remedies of Article 18 and the review procedure for conflicting obligations are confined to production orders, leaving the preservation order in a weaker position; yet the preservation of data is not a matter of indifference to data subjects, as the extensive development of data protection in the Union itself makes plain. Second, the requirement that a similar measure be available in the issuing State in a comparable domestic case presupposes a harmonising effort that, if absent, may block requests and frustrate the fundamental right to evidence. More broadly, the exclusively European character of the orders confirms the need for new formulas of cooperation with third States [14, p. 294], where much of the data relevant to European proceedings remains located. These difficulties, together with divergent national rules on admissibility [12, p. 29], mark the limits of what the new instruments can achieve on their own.

Conclusion

Regulation (EU) 2023/1543 and Directive (EU) 2023/1544 are a decisive step towards the effective prosecution of contemporary crime, adapting the principle of mutual recognition to a reality in which evidence is volatile, extraterritorial and held by private operators. The most striking novelty—the direct addressing of orders to designated establishments and legal representatives—is

also the feature that requires the greatest vigilance, since it displaces onto private actors functions of public authorities. The safeguards surrounding the system (necessity and proportionality, judicial reservation for the most intrusive orders, notification of the enforcing authority, exhaustive grounds for refusal, review of conflicting obligations, sanctions and effective remedies) are valuable but unevenly distributed. Member States should extend effective remedies to preservation orders, ensure that the "comparable domestic situation" requirement does not obstruct cooperation, and train practitioners in the new instruments. The real value of the orders will be measured by their application in conformity with Article 6 TEU and the Charter of Fundamental Rights and by the Union's success in articulating comparable cooperation with third States.

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

COOPERATION BETWEEN THE SUBJECTS OF INVESTIGATION IN CROSS-BORDER INTERNET FRAUD CASES

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Abstract. *Internet fraud is often organised in one country, committed in another and cashed out in a third. For this reason, solving such cases depends on the joint work of the subjects taking part in the investigation. The article examines how the investigator, the bodies of inquiry, the prosecutor, specialists, banks and the competent authorities of foreign states cooperate with each other. The study is based on comparative legal and systemic analysis, on foreign legislation and on materials of investigative practice. The author distinguishes three levels of interaction - internal, interagency and international - and shows the main problems at each of them: the rapid loss of digital traces, the slow exchange of information and the duplication of powers. Proposals are made on joint investigation teams, expedited requests and investigative actions through videoconferencing. The results may be used in improving legislation and in practical work.*

Keywords**:** *internet fraud, cross-border crime, criminal proceedings, investigative subjects, interaction, mutual legal assistance, electronic evidence.*

Introduction

Internet fraud has become the dominant form of acquisitive crime in Uzbekistan. According to the Ministry of Internal Affairs, the number of crimes committed with the use of information technologies grew from 4,865 in 2021 to 62,440 in 2025, and the damage caused to citizens over these five years reached 3.73 trillion soums [1]. In 2024 alone, 58,800 such crimes were registered, and their share in total recorded crime rose from 6.2 to 44.4 per cent [2]. Almost every second registered offence is now committed online.

The main difficulty in investigating these crimes is their cross-border character. A single fraud episode is usually spread across several States. The offender acts from one country, the victim and the debited account are in another, the hosting provider or messenger service operates from a third, and the money is withdrawn or converted into crypto-assets in a fourth. As a result, the investigator must obtain almost all the necessary information from outside the national jurisdiction.

Here the problem of time arises. Subscriber data, IP logs and transaction records are often deleted within a few days. Traditional legal assistance procedures, however, take months. Research shows that more than half of all criminal investigations today require electronic evidence stored abroad, while the average execution time of a mutual legal assistance request is about ten months [3]. In other words, evidence usually disappears before the request reaches the foreign authority.

For this reason, the success of such cases depends less on investigative tactics and more on how well the participants of the investigation work together. This includes the investigator, the bodies of inquiry, prosecutorial supervision, specialists and

experts, banks and payment organisations, and the competent authorities of foreign States.

Uzbek legislation has already recognised the importance of this issue. Fraud committed through information systems is qualified under paragraph "g" of part three of Article 168 of the Criminal Code. Presidential Resolution No. PD-153 of 30 April 2025 "On measures aimed at further strengthening activities to counter crimes committed with the use of information technologies" designated the Ministry of Internal Affairs as the body responsible for coordinating all competent State organs in this field. At the international level, Uzbekistan cooperates on the basis of bilateral treaties, since it is not a party to the Council of Europe Convention on Cybercrime. The United Nations Convention against Cybercrime, adopted by General Assembly resolution 79/243 of 24 December 2024 and opened for signature in Hanoi on 25 October 2025, has not yet entered into force [4]. The coordinating framework has therefore been declared, but the procedural mechanisms serving it are still incomplete.

The question has been studied from two main directions. Criminological research describes the growth and under-reporting of economic cybercrime and its consequences for criminal policy [5]. Legal research analyses cross-border access to electronic evidence and the gradual shift from State-to-State cooperation towards direct cooperation with service providers [6].

Both directions, however, focus on the external channel of cooperation - between States, or between a State and a foreign company. The internal side of the question remains almost unexamined: how the domestic subjects of the investigation should distribute their functions and exchange information among themselves. In addition, the experience of countries that operate outside the Budapest system and rely on bilateral treaties has not been studied as a separate model.

The aim of this article is to develop a model of interaction between the subjects of investigation in cases of cross-border internet fraud and to propose ways of regulating it in criminal procedure. The study seeks to answer three questions: which levels of interaction exist in this category of cases and what obstacles arise at each of them; whether the instruments currently available to Uzbek investigators correspond to the short life-cycle of digital evidence; and which foreign mechanisms - joint investigation teams, expedited preservation requests and investigative actions conducted by videoconference - can be adapted to national legislation.

Materials and methods

Normative sources. The first group comprises the legislation of the Republic of Uzbekistan: the Criminal Code, the Criminal Procedure Code, and Presidential Resolutions No. PD-381 of 30 November 2023 and No. PD-153 of 30 April 2025. The second group comprises international instruments: the Council of Europe Convention on Cybercrime and its Second Additional Protocol of 12 May 2022 (CETS No. 224), the European Union legislation on production and preservation orders for electronic evidence, and the United Nations Convention against Cybercrime adopted by General Assembly resolution 79/243 of 24 December 2024. These instruments were selected because each of them regulates exactly the questions examined in this article: the expedited preservation of data, direct cooperation with service providers, joint investigation teams and permanent contact points.

Empirical materials. The empirical basis consists of the official statistical data of the Ministry of Internal Affairs on crimes committed with the use of information

technologies for the period 2021–2025, published materials of investigative and judicial practice in cases of internet fraud containing a cross-border element, and generalised information on the practice of executing requests for legal assistance in this category of cases.

Methods.

The formal-legal method was used to analyse the content of national procedural norms and to identify gaps in the regulation of interaction between the participants of the investigation.

The comparative-legal method was used to compare the national model with the mechanisms established by the Second Additional Protocol and the European instruments. The comparison was carried out according to three criteria: the time limits for executing a request, the range of subjects entitled to address a foreign service provider directly, and the procedural form of joint investigative activity.

The systemic-structural method served to construct the model of interaction and to distinguish its three levels - internal, interagency and international - as well as to determine the functional connections between them.

The statistical method was used to process the data on the dynamics of registered crimes and the damage caused, and to correlate them with the time actually required to obtain electronic evidence.

Results

The analysis of legislation and practice shows that interaction in cases of cross-border internet fraud is not a single process. It operates at three distinct levels, each with its own subjects, its own time frame and its own type of obstacle.

The internal level covers relations within one law enforcement body: between the investigator, the operational officers, the specialist in digital forensics and the head of the investigative unit. Here the decisive factor is speed at the very first hours after the report of the crime.

The interagency level covers relations between different national institutions: the investigative bodies, prosecutorial supervision, the Cybersecurity Centre, banks, payment organisations and mobile operators. Here the decisive factor is access to information held by third parties.

The international level covers relations with the competent authorities of foreign States and with foreign service providers. Here the decisive factor is the legal form through which a request can be made and executed.

These levels are not independent. A delay at the internal level makes the interagency stage meaningless, because by the time the request is prepared the data no longer exists. In this sense the three levels form a chain in which the weakest link determines the result of the whole investigation.

The first problem is the loss of digital traces caused by delay. Session logs,

IP addresses and device identifiers are stored by providers for a limited period and are overwritten in the ordinary course of business. The national procedure does not provide for a simplified preservation measure that could be applied immediately, before the collection of the data itself is authorised. As a result, the investigator is obliged to follow the full procedure for obtaining evidence at a moment when the only realistic task is to prevent the evidence from disappearing.

The second problem is the uneven distribution of technical competence. The qualification of an act under Article 168 of the Criminal Code requires the establishment of the mechanism of unauthorised access to the account,

which is a technical question. Where a specialist is involved only at the stage of the expert examination, and not at the stage of planning the investigation, the initial investigative actions are performed without an understanding of where the traces are actually located.

The main obstacle is the absence of a single channel for exchanging information on fraudulent accounts, cards and telephone numbers. Each bank responds to requests separately and within its own time frame, although the same fraudulent scheme usually involves accounts in several institutions at once. Consequently, the picture of the movement of funds is assembled from fragments received at different moments, by which time the money has already been withdrawn or converted.

Presidential Resolution No. PD-153 of 30 April 2025 addressed precisely this problem by designating the Ministry of Internal Affairs as the body responsible for coordinating all competent State organs in this field. This established the institutional centre of coordination. However, coordination as an administrative function and interaction as a procedural relationship are not the same thing. The Criminal Procedure Code does not define the procedural form in which the results of such coordinated activity are recorded and introduced into the case file. The coordinating mechanism therefore exists, while the procedural mechanism serving it does not.

At this level the results confirm the conclusions reached in the international literature. The lifetime of electronic evidence is measured in days, whereas the execution of a request for legal assistance is measured in months [3]. The mismatch is structural rather than organisational: the procedure was designed for documents and physical objects, which do not disappear while the request is being transmitted.

Three specific difficulties follow from this.

First, there is no legal basis for addressing a foreign service provider directly. Since the Republic of Uzbekistan is not a party to the Council of Europe Convention on Cybercrime and its Second Additional Protocol, the mechanism of direct cooperation with providers and registrars for obtaining subscriber information is unavailable. Every such request must pass through the full chain of central authorities.

Second, there is no permanent contact point operating on a continuous basis. The Second Additional Protocol and the United Nations Convention against Cybercrime both proceed from the assumption that an emergency request can be sent and received at any hour. Where communication is possible only during working hours and through the central authority, the very idea of an expedited request loses its meaning.

Third, the joint investigation team is not regulated as a procedural institution. Where officials of two States work on connected episodes, each of them acts within its own case, and the results obtained by one party must be transferred to the other through the ordinary channel of legal assistance. The advantage of joint work - the simultaneous performance of actions in several jurisdictions - is thereby lost.

The results can be summarised as follows.

The effectiveness of the investigation of cross-border internet fraud depends on the speed of interaction at all three levels, and the national procedural law currently regulates the first level in detail, the second level partially, and the third level by reference to general provisions on legal assistance.

The principal reason is not a lack of coordination between institutions, but the

absence of procedural instruments adapted to the short life-cycle of digital evidence. Coordination has been established at the level of executive regulation, whereas the corresponding procedural forms have not been introduced into the Criminal Procedure Code.

Accordingly, three instruments are required to close this gap: an expedited measure for the preservation of data pending the decision on its collection, a procedural form for joint investigative activity with foreign authorities, and the regulation of investigative actions conducted by videoconference in cases involving participants located abroad.

Discussion

The findings presented above lead to a conclusion that deserves to be stated directly: in cases of cross-border internet fraud, the decisive procedural resource is not authority but time. This is what distinguishes the present category of cases from other forms of transnational crime. In an investigation of drug trafficking or money laundering, the object of evidence - the substance, the account, the property - continues to exist while the request for legal assistance travels through the central authorities. In internet fraud it does not. Session logs, subscriber records and device identifiers are erased in the ordinary course of the provider's business, without any intention to conceal the crime.

This is precisely why the international literature has for the past decade treated the mutual legal assistance system as structurally unsuited to digital evidence rather than merely slow. Casino and co-authors demonstrate that more than half of all criminal investigations now require access to data held abroad, while the ordinary channel of judicial cooperation operates on a scale of months. Abraha reaches the same conclusion from a different direction, showing that the proliferation of reform initiatives across jurisdictions is itself evidence that the traditional system is no longer considered sustainable by the States that created it.

The author shares this assessment, but with one qualification. The literature tends to present the problem as an external one - as a question of relations between States. The present study suggests that the external channel is only the final segment of a chain, and that the same loss of time occurs earlier, inside the national procedure, where no request has yet been sent to anyone. If the initial hours are spent on the ordinary procedure for collecting evidence rather than on preserving it, the deficiencies of the international mechanism become irrelevant, since there is nothing left to request.

Three responses to this problem have emerged internationally, and it is useful to distinguish what each of them genuinely achieves.

The first is the acceleration of the request itself. The European Union has replaced negotiation between authorities with an order addressed directly to the service provider, with strict deadlines for compliance. Sachoulidou describes this as a paradigm shift, in which cooperation that had previously been informal and voluntary was given binding legal form [7]. The gain in speed is considerable, but the mechanism operates within a single integrated legal space and presupposes that provider maintain legal representatives in the requesting jurisdiction.

The second is direct cooperation with foreign providers under the Second Additional Protocol to the Convention on Cybercrime. Here, however, caution is warranted. Davies and Kennedy-Mayo, having examined the substantive provisions of the Protocol and their anticipated implementation, conclude that it is unlikely to remove the persistent barriers faced by authorities seeking data stored overseas [8].

Their argument is important for the present study because it warns against a common error in comparative research: treating the adoption of an instrument as equivalent to the solution of the problem it addresses.

The third is joint investigative activity. Its advantage is qualitatively different from the first two. An expedited request accelerates the transfer of information; a joint investigation team removes the need for transfer altogether, since officials of both States act within a single case. Comparative analysis indicates that this form offers greater flexibility than a request-based mechanism, though it requires substantially more coordination and a prior agreement between the parties.

Abraha distinguishes four approaches to cross-border data access - reformist, unilateralist, internationalist and nuanced. This typology is useful for determining the position of the Republic of Uzbekistan.

The unilateralist approach, under which a State extends its own enforcement jurisdiction to data stored abroad, is unacceptable: it presupposes economic leverage over global providers that few States possess, and it generates conflicts of law rather than resolving them. The internationalist approach, which relies on a universal treaty, is in principle the most appropriate, but the United Nations Convention against Cybercrime has not yet entered into force, and the number of ratifications required means that its practical effect cannot be expected in the immediate future.

The realistic path is therefore the reformist one: adapting national procedure so that it is capable of operating at the speed the evidence requires, and doing so without waiting for the international framework to mature. This conclusion has a practical consequence. The instruments proposed in this study - an expedited preservation measure, a procedural form for joint investigative activity, and investigative actions conducted by videoconference - do not require prior accession to any particular convention. They can be introduced into national law as autonomous procedural institutions and will then be compatible with whichever international instrument the State subsequently joins.

A separate observation concerns the internal level, which the comparative literature largely leaves aside.

Research on offender organisation shows that cybercriminal groups are not purely virtual formations: they combine offline social ties with digitally acquired technical specialisation, and their members occupy clearly differentiated roles [9]. This finding has a direct methodological consequence. If the criminal group is functionally differentiated, an investigation conducted by a single investigator supported by an occasional expert opinion is structurally weaker than its object. The composition of the investigating side must correspond to the composition of the offending side - which means the early and permanent participation of a specialist in the planning of investigative actions, not merely at the stage of expert examination.

The same logic applies to financial institutions. Banks and payment organisations are not simply holders of information subject to request; they are the only participants able to observe the movement of funds in real time. Their role in the model proposed here is therefore closer to that of a participant in interaction than to that of a source of evidence.

Two objections must be acknowledged.

The first concerns sovereignty. Any mechanism permitting an authority of one State to address a private company situated in another shifts the traditional boundary between territorial jurisdictions. The criticism directed at such

mechanisms in the literature is well founded, and the response cannot be to disregard it, but to accompany every acceleration of procedure with a corresponding guarantee: judicial authorisation for the collection of content data, and strict limitation of the expedited measure to preservation, which does not disclose the content of communications to anyone.

The second concerns the limits of the present study. The comparison undertaken here is doctrinal, and it establishes what foreign norms provide rather than how effectively they operate. Levi has repeatedly observed that in the field of economic cybercrime the available data are shaped by reporting practices as much as by criminal activity itself. The same caution applies to the conclusions of this article: they identify gaps in legal regulation, and empirical verification of the proposed model would require data on the execution of requests that is not currently published.

Conclusion

The investigation of cross-border internet fraud has become a problem of organisation rather than of tactics. The study has shown that interaction in this category of cases operates at three levels - internal, interagency and international - and that these levels form a chain in which the weakest link determines the outcome. Time is the decisive resource at every one of them, because digital traces disappear in the ordinary course of a provider's business, without any action on the part of the offender.

The principal conclusion is that the gap in the national system lies not in coordination but in procedure. Presidential Resolution No. PD-153 of 30 April 2025 established the institutional centre of coordination by designating the Ministry of Internal Affairs as the authorised body in this field. What has not yet been introduced is the set of procedural forms through which such coordinated activity can be conducted and recorded. Coordination exists at the level of executive regulation; the corresponding instruments are absent from the Criminal Procedure Code.

Three amendments are therefore proposed.

First, to introduce an expedited measure for the preservation of computer data, applied by decision of the investigator with subsequent notification of the prosecutor, limited in duration and not entailing disclosure of the content of communications. Its purpose is to stop the destruction of data while the question of its collection is being decided.

Second, to regulate the joint investigation team as a procedural institution, defining the grounds for its creation, the composition of its participants and the procedural status of the results obtained by the foreign party.

Third, to establish the procedure for conducting investigative actions by videoconference where a participant is located outside the territory of the Republic, together with the requirements for recording such actions and verifying the identity of the participants.

These instruments do not depend on accession to any particular international treaty and can be introduced as autonomous provisions of national law. They will remain compatible with the United Nations Convention against Cybercrime once it enters into force.

The results may be used in the preparation of amendments to the Criminal Procedure Code, in the practical work of investigative bodies, and in the training of specialists in this field.

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

PROBLEMS OF PROCEDURAL REALITY IN CRIMINAL PROCEEDINGS

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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.

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

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***Abstract*:** *In the modern penitentiary system, improving the conditions of detention of persons holding foreign citizenship is of particular importance, with due regard to their legal status, security, and specific needs. In studying the social and legal relations in this area, comparative legal, systemic legal, formal legal, and analytical approaches were employed. The study identified the positive and negative aspects of differentiated models of prisoner placement, particularly the practice of accommodating inmates in specialized and general correctional institutions, and substantiated the role of safeguards provided by national legislation. The proposals developed in this study are of practical significance for introducing individualized mechanisms into the execution of sentences, bringing the conditions of detention into line with international standards, and improving the regulatory and legal framework governing the penitentiary sector. Overall, rather than adopting a single universal model for the detention of foreign nationals in places of imprisonment, the most appropriate approach is to introduce a system based on the national context and the individual characteristics of each inmate, incorporating risk assessment and dynamic monitoring mechanisms.*

***Keywords*:** *Penitentiary system, correctional institutions, foreign inmates, legal status, conditions of detention, differentiated approach, risk assessment.*

The detention of prisoners who are foreign nationals in penitentiary institutions is one of the pressing areas of the modern penitentiary system. When accommodating and detaining foreign prisoners, it is necessary to take into account their legal status, nationality, linguistic and cultural characteristics, religious needs, personal safety, as well as the possibility of maintaining consular and family contacts. Therefore, various countries have developed specific organizational and legal mechanisms for the placement and detention of foreign prisoners.

The criminal-executive legislation of the Republic of Uzbekistan also establishes specific provisions aimed at regulating the legal status of foreign nationals and stateless persons, the procedure for serving sentences, and ensuring their communication with diplomatic and consular missions. Pursuant to Article 8 of the Criminal Executive Code, foreign nationals and stateless persons, while serving their sentences, enjoy the rights and freedoms established for citizens of the Republic of Uzbekistan, subject to the restrictions provided for by law.

The possibility for foreign prisoners to maintain contact with their home countries is also of significant importance in ensuring their legal status. Article 9 of the Criminal Executive Code guarantees the right of foreign national prisoners to maintain communication with

diplomatic missions and consular institutions of their respective countries [1, Art. 9]. Furthermore, the primacy of international law is ensured in this area. Where an international treaty establishes provisions that differ from those provided for by national legislation, the provisions of the international treaty shall apply.

The aim of the article is to analyze the existing legal framework governing the detention of prisoners who are foreign nationals in the Republic of Uzbekistan, examine the principal approaches developed in the penitentiary practices of foreign countries, and substantiate scientifically and practically oriented proposals aimed at improving the national system based on foreign experience.

The object of the study comprises the social and legal relations associated with the detention of prisoners who are foreign nationals in penitentiary institutions. The subject of the study includes the legal status of foreign prisoners, organizational mechanisms for their detention, the provision of diplomatic and consular contacts, and penitentiary models applied in foreign countries.

The study employed comparative legal, systemic legal, formal legal, and analytical methods. The comparative legal method was used to compare the procedure for detaining foreign prisoners in Uzbekistan with the practices of foreign countries. Using the formal legal method, the specific provisions established in the Criminal Executive Code concerning foreign nationals were analyzed. The systemic approach made it possible to assess in an interconnected manner the legal status, security, and social reintegration of foreign prisoners.

The research materials included the provisions of the Criminal Executive Code of the Republic of Uzbekistan, scholarly studies on the penitentiary practices of foreign countries, and data from Eurostat.

The research findings demonstrated that specific mechanisms regulating the legal status of foreign prisoners have been established within the criminal-executive legislation of Uzbekistan. In particular, it was established that foreign nationals and stateless persons are granted the opportunity to exercise their rights and freedoms under the national treatment principle, while their communication with diplomatic missions and consular institutions is guaranteed [1, Art. 9]. Furthermore, a procedure has been established for notifying the relevant diplomatic mission or consular institution upon the release of a prisoner [1, Art. 173].

The study of international penitentiary practices has shown that there are two main approaches to the detention of foreign prisoners. The first approach involves establishing specialized penitentiary institutions specifically for foreign prisoners. Under the second approach, foreign prisoners are detained together with domestic prisoners in general correctional institutions. In some countries, separate wings, blocks, or cells are designated for foreign prisoners within general correctional institutions [2].

The experience of the United Kingdom demonstrates the existence of specialized institutions for the detention of prisoners who are foreign nationals, including HMP Huntercombe, HMP Maidstone, and HMP Morton Hall. Under this practice, the detention of foreign prisoners is integrated with procedures concerning their subsequent immigration status and potential deportation [3].

In Norway, an approach aimed at the separate detention of foreign prisoners has also been developed. Kongsvinger Prison has operated as an institution specializing in the detention of prisoners who are foreign nationals. In the United States, specific detention mechanisms concerning foreign nationals have also been established, including practices implemented within the framework of the "Criminal Alien Requirement" program [3].

At the same time, it was found that in the majority of European countries, foreign prisoners are detained together with domestic prisoners in general penitentiary institutions. Eurostat data indicate that the proportion of foreign prisoners among the total prison population varies significantly across countries. In particular, a high proportion of prisoners who are foreign nationals has been recorded in Luxembourg, Switzerland, Austria, and Greece [4].

The analysis of the research findings demonstrates that both the separate detention of foreign prisoners in specialized institutions and their placement in general correctional institutions have certain advantages and disadvantages. Although specialized institutions make it possible to take into account the linguistic, cultural, and legal characteristics of foreign prisoners and to effectively manage issues related to their immigration status, excessive isolation may limit their access to education, medical care, psychological rehabilitation, and family contacts.

The model of detention in general correctional institutions, in turn, provides greater opportunities for foreign prisoners to participate in general, educational, and rehabilitation programs implemented within the penitentiary system. However, under such conditions, additional measures are required to address language barriers, cultural and religious needs, consular contacts, and personal security. Therefore, it would be inappropriate to regard any single model as a universal solution for the detention of foreign prisoners.

Based on the findings of the study, it is advisable to strengthen an individualized and differentiated approach to the detention of foreign prisoners within the penitentiary system of the Republic of Uzbekistan. In this regard, alongside the prisoner's nationality, consideration should be given to their personal security, the nature of the offense, linguistic and cultural needs, religious beliefs, consular contacts, and legal status following the completion of their sentence.

In this regard, it is proposed to establish a mechanism for the detention of foreign prisoners based on the principle of "assessment of legal status – determination of the level of risk – individualized determination of detention conditions – dynamic monitoring." Such an approach would, on the one hand, contribute to ensuring security within penitentiary institutions and, on the other hand, facilitate the effective protection of the rights and legitimate interests of foreign prisoners.

Thus, the experience of foreign countries demonstrates that there is no single universal model for the detention of foreign prisoners. For Uzbekistan, the most appropriate approach may be to adapt effective elements of foreign practices to national legal and institutional conditions, applying separate detention only where objectively necessary and, in general correctional institutions, taking into account the specific needs of foreign prisoners.

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CRIMINALISTIC FOUNDATIONS FOR INTEGRATING GAIT IDENTIFICATION WITH FORENSIC PORTRAIT EXAMINATION

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Abstract. *The article appraises the capabilities of gait identification technologies for establishing identity from video surveillance imagery and elaborates the criminalistic and procedural foundations for integrating them with forensic portrait examination. The topicality of the study is dictated by the widespread resort of offenders to techniques of concealing and altering their appearance and by the steady expansion of video surveillance infrastructure in the republic. The research rests upon the comparative-legal, systemic-structural, formal-legal and statistical methods, and draws upon peer-reviewed studies indexed in Web of Science and Scopus, benchmark results obtained under a unified protocol, the guidance of international expert organisations and the criminal-procedure legislation of Uzbekistan. It is established that gait yields its greatest effect not as an autonomous means of identification, but as a modality complementing portrait examination where appearance has been concealed or altered, the strengths and weaknesses of the two modalities being mutually compensatory. A seven-stage methodological model, a procedural order for obtaining samples for comparative examination and minimum requirements for video material are proposed for application in national conditions.*

Keywords**:** *gait identification, forensic portrait examination, habitoscopy, complex forensic examination, video surveillance, alteration of external appearance, forensic gait analysis, likelihood ratio.*

Introduction

Imagery obtained from video surveillance systems has become one of the principal instruments of investigative practice worldwide. Video recordings, once peripheral to a discipline concerned chiefly with static objects, are now among the objects most frequently retrieved during the inspection of the scene of an incident. Meanwhile, the deliberate resort by offenders to methods of concealing their appearance has grown into a systemic problem: masks, headgear, hoods and spectacles — and, in certain instances, cosmetic surgery — have drastically curtailed the scope for facial identification. Where the subject is recorded tens of metres from the camera, the facial region may be rendered by no more than a few dozen pixels and thereby become unfit for comparative examination.

It is precisely in such circumstances that gait — the aggregate of habitual, automated movements performed by a person while walking — becomes a significant source of identification-relevant information. It is captured at a distance, in low-quality imagery, contactlessly and without the subject's consent; it cannot be covered by a mask, and it withstands the conventional techniques of altering appearance. Gait identification begins at the very point at which facial identification ceases to be feasible.

Research on the subject has developed along three lines. The first is bound up with habitoscopy, within which the elements of external appearance are divided into principal (complex, anatomical and functional) and auxiliary groups; this classification, formalised by V.A. Snetkov, remains the prevailing theoretical framework in contemporary

textbooks [1, pp. 42–45]. The second consists in a critical appraisal of the scientific foundations of forensic gait analysis: N.M. van Mastrigt and co-authors, having substantiated the requirement that an identification feature be measurable, stable and discriminating, showed that gait occupies a problematic position by reference to those criteria [2], and the Royal Society primer likewise records that gait evidence presently holds the status of a class characteristic [3, p. 15]. The third is automated recognition, which, as I. Macoveciuc and co-authors emphasise, has appreciably outstripped traditional gait analysis in data volume and statistical evaluation [4]; the systematic review by Y. Liu and co-authors shows that gait analysis yields its greatest effect in conjunction with other identification methods [5].

Notwithstanding the foregoing, the research to date has not elaborated a procedural form for uniting the two modalities within a single examination, while at the national level the status of gait identification remains undetermined and no methodology has been approved. The topicality of the problem for Uzbekistan is compounded by the expansion of the "Safe City" hardware-and-software complex: pursuant to Resolution of the President of the Republic of Uzbekistan No. PD-1 of 3 January 2025 "On measures to further enhance the effectiveness of the system for creating a safe environment in the mahallas of the republic and for the early prevention of offences in 2025", mahallas assigned to the "red" category are being covered by cameras under a unified technological approach, so that a vast corpus of video material is accumulating at the disposal of the investigative authorities.

The aim of the study is to appraise the present capabilities of gait identification technologies on empirical data, to elaborate the criminalistic and procedural foundations for their integration with forensic portrait examination, and to propose a model of complex identification applicable in national conditions.

Materials and methods

The methodological basis of the study is the dialectical method of cognition. Recourse was had to the comparative-legal method (juxtaposing foreign practice and standardisation instruments with national legislation), the systemic-structural method (constructing the model of complex examination), the formal-legal method (interpreting normative instruments) and the statistical method.

The empirical basis comprises peer-reviewed publications on forensic gait analysis and automated recognition indexed in Web of Science and Scopus; the results of comparative testing under the unified OpenGait protocol on the GREW and Gait3D benchmark datasets; the methodological instruments of international expert organisations — the FISWG guidelines, the ENFSI guideline for evaluative reporting and the Royal Society primer; the NIST reports on recognition accuracy where masks are worn; standard ISO/IEC 30137-1:2024; and the criminal-procedure legislation of Uzbekistan.

Results

In habitoscopy, gait belongs to the system of functional characteristics. Its criminalistic significance rests upon three properties: it is a stable motor stereotype formed in the course of ontogeny; it is directly conditioned by the person's anatomical structure, the state of the musculoskeletal apparatus and occupational skills; and it may be recorded at a distance, without the participation of the object of observation. Traditional doctrine accorded identification significance to functional

characteristics at the level of an "individual characteristic"; absent empirical data as to their frequency within the population, the conclusion rested upon the expert's personal experience.

Contemporary empirical data refine this picture. The evidence as to inter-individual discriminability is comparatively robust: statistically significant differences have been confirmed in joint angles, in plantar pressure distribution and in spatiotemporal parameters. Intra-individual stability is a more complex matter. In a joint study by Saarland University and the forensic science institute of the Federal Criminal Police Office of Germany (BKA), the variability induced by experimental conditions — differing footwear, muscular fatigue and a restricted field of vision — exceeded inter-individual variability [6]. Where the questioned and the reference recordings have been obtained under dissimilar conditions, the differences detected may be attributable to those conditions rather than to the distinctness of the persons; hence the principle of "comparing like with like" is mandatory.

All the factors enumerated are in principle controllable; they do not negate the identification potential of gait but define the requirements to be imposed upon the conditions of comparison. In our view, owing to the paucity of population reference data, gait features retain for the time being the status of class characteristics [3, p. 15]. A change in that status is a question of data rather than of methodology.

The advent of deep learning supplied the impetus for a fundamental transformation of the field [7]. The methodological turning point was the open OpenGait platform: ablation experiments were re-run, a number of conclusions drawn from laboratory data were shown not to transfer to real-world conditions, and a common basis of comparison was established [8]. The most objective means of appraising the state of the technology is, in our view, to trace the dynamics of the results obtained under that unified protocol.

Table 1

Dynamics of recognition accuracy in unconstrained environments (%)

Model	Year	GREW	Gait3D
GaitSet [9]	2019	46.3	36.7
GaitPart	2020	44.0	28.2
GaitGL	2021	50.8	29.7
GaitBase [8]	2023	60.1	64.6
DeepGaitV2 [8]	2023	77.4–79.4	74.4
SwinGait [8]	2023	79.3	75.0
SkeletonGait++ [10]	2024	85.8	77.6

Source: compiled by the author on the basis of the data reported in [8].

All the values in the table result from retrospective re-evaluation: GREW was created in 2021 [11] and Gait3D in 2022 [12], so that the authors of the earlier models did not report these indicators at the material time. The growth is not uniform, and it is precisely that non-uniformity which is the most informative. GaitPart and GaitGL, developed in 2019–2021, performed less well on Gait3D than GaitSet, having been optimised for laboratory datasets and not adapted to the noise of genuine surveillance footage or to incomplete silhouettes.

The qualitative leap commenced in 2023 and was secured by three factors. First, in architectures founded upon residual learning, the positive correlation between model depth and accuracy was confirmed precisely on data from unconstrained environments [8]. Secondly, the fusion of modalities — jointly processing silhouette and skeleton representations — attained a new state of the art among multimodal methods [10], while three-dimensional point clouds rendered recognition feasible under night-time and occlusion conditions and were further developed in 2025 [13]. Thirdly, large pre-trained vision models were put into practice [14].

The significance of this trajectory for the expert is twofold. Automated systems are now mature enough to filter extensive video arrays and narrow the pool of candidates; yet these indicators, obtained on closed sets under a defined protocol, do not transfer to the reliability of an expert's opinion.

Portrait examination remains the principal method of identifying a person by the features of external appearance, its methodological foundations being systematised in international guidance on facial comparison [15, p. 5]. Its scope is, however, strictly delimited by the presence of the facial region within the image and the sufficiency of its quality. That limit may be exceeded in three situations: deliberate concealment of the face; purposive alteration of appearance; and the technical constraint arising from distance. Large-scale testing records that the error rates of recognition algorithms rise appreciably where a mask is worn [16].

What is material is that in all three situations the recording preserves information as to the person's gait. A mask covers the face but conceals neither stride length, nor trunk inclination, nor the amplitude of arm swing; cosmetic surgery alters anatomical features but leaves the motor stereotype unchanged; distance destroys facial detail but preserves the contour of the body and its movement dynamics. The asymmetry is corroborated experimentally: in a system integrating face, body morphology and gait, the highest performance was attained through the fusion of modalities, and where the facial region was occluded or degraded the system was sustained by gait and body morphology [17].

Table 2

Comparative capabilities of identification modalities

Criterion	Face	Body morphology	Gait	Complex approach
Long distance	low	Moderate	high	high
Low-quality imagery	low	Moderate	high	high
Mask, headgear	very low	High	high	high

Criterion	Face	Body morphology	Gait	Complex approach
Change of clothing	high	Low	moderate	high
Cosmetic surgery	low	High	high	high
Methodological maturity	high	Low	moderate	moderate
Probative value	high	Low	moderate	high

Source: developed by the author.

As the table demonstrates, facial identification is resilient to a change of clothing yet vulnerable to a mask, whereas gait exhibits the converse pattern; the strengths and weaknesses of the modalities are mutually compensatory, and this complementarity constitutes the scientific foundation of the complex approach. Habitoscopy has always regarded appearance as an integral system, yet because photography failed to record functional characteristics, examination remained historically confined to anatomical features.

Taking into account international experience and the requirements of national legislation, we propose the following seven-stage model of forensic examination.

Stage one — assessment of the suitability of the object: the technical parameters of the video material are verified, the number of complete gait cycles is established, the suitability of the facial region for portrait examination is assessed, and the composition of the complex examination is determined.

Stage two — independent analysis of the questioned object: without access to the reference material or to the circumstances of the case, the expert records, in accordance with a standardised checklist, only the features present in the recording of the incident.

Stage three — obtaining samples for comparative examination. Stage four — analysis of the reference object by the same checklist.

Stage five — comparative examination: each difference is assessed for whether it may be explained by a change in conditions, and the correlation between features is taken into account.

Stage six — synthesis of the results and formulation of the conclusion. Stage seven — independent "blind" verification by a second expert.

Automated recognition systems are deployed before the examination, within the framework of operational-search activity, in order to filter video arrays, and they occupy a discrete place within the model. The output of an algorithm cannot serve as the foundation of an expert's opinion, and the examination must be conducted independently of the indicators it produces.

Table 3

Minimum requirements for video material for the purposes of gait analysis

Parameter	Recommended value	Rationale
Frame rate	25 fps and above	Differentiation of cycle phases
Height of the subject in frame	not less than 120 pixels	Localisation of joint points

Parameter	Recommended value	Rationale
Complete gait cycles	not fewer than three	Mean value and dispersion
Camera viewing angle	close to the sagittal plane	Reduction of angular error
Camera mounting height	1.8–3.0 m	Reduction of perspective distortion
Compression level	no visible artefacts	Accurate contour segmentation
Continuity of the recording	no dropped frames	Computation of temporal parameters

Source: developed by the author.

These values are not definitive: they follow the general approaches of the international standard on biometric modalities in video surveillance systems [18] and require refinement through validation studies in national conditions.

Discussion

The findings give rise to a number of debatable questions, some methodological and others procedural. First, the distinction between forensic gait analysis and automated recognition must be clarified, since the two are frequently treated as synonyms. Forensic gait analysis is a process of observation, analysis, comparison and evaluation performed by an expert, the outcome of which is an interpretation of evidence; automated recognition yields match scores or a ranking of candidates. The former is an expert examination, the latter an instrument of operational-search activity — a delineation whose necessity is confirmed, inter alia, by the vulnerability of deep neural networks to adversarial attacks.

The second problem concerns the form of the expert's opinion. Contemporary methodology tends to move from the categorical to the probabilistic form, the principal instrument in evaluative reporting being the ENFSI guideline [19, p. 17]. The likelihood ratio model requires components of similarity and typicality; in the field of gait it is precisely population reference data that are wanting. One of the first practical models directed at that lacuna converted gait features into dichotomous variables and applied principal component analysis [20]; it established a high mutual correlation between gait features and demonstrated that correlated features cannot be treated as contributing independently to the weight of the evidence — a proposition applying equally to cross-modality fusion.

The limits of the expert's remit call for separate comment. The likelihood ratio expresses the ratio of the probabilities of the findings under two competing propositions; it does not indicate how probable a proposition itself is, and interchanging the two gives rise to the logical error known as the transposed conditional. The expert does not pronounce upon the sufficiency of the evidence — that falls within the power to evaluate evidence conferred by Article 95 of the Criminal Procedure Code .

The legislation of the Republic of Uzbekistan permits implementation of the approach described. A video recording may be admitted to the case file as one of the types of evidence provided for in Article 81 of the Criminal Procedure Code; an examination may be appointed by a decision or a ruling under

Article 180; the requirements applicable to the opinion of a commission of experts are laid down in Article 184. Joint examination by experts of differing specialisations is regulated by paragraph 29 of the model Regulation approved by Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 73 of 21 February 2023, under which each expert signs only that part of the opinion falling within his or her own competence. That rule reinforces an essential feature of the proposed model: the portrait and gait findings are to be substantiated separately and synthesised only thereafter, their weight being differentiated — a conclusion drawn from gait possesses corroborative significance and cannot displace the result of the portrait examination.

The weakest point of the model is the obtaining of samples for comparative examination, governed by Chapter 23 of the Criminal Procedure Code, the limits of compulsion being indicated in Article 181. A gait sample is an active sample: unlike a fingerprint or a blood sample, it can be obtained only if the person moves independently. Two consequences follow. The first is legal: compulsion applicable to a passive sample does not automatically extend to an active one, which raises a question bound up with Article 181 and with the principle of respect for the honour and dignity of the person enshrined in Article 17 of the Code. The second is methodological: the person furnishing the sample may deliberately distort his or her gait. Recourse to pre-existing recordings as reference samples is therefore preferable, subject to the Law "On Personal Data".

Technological development is running ahead of legal regulation. The technical requirements for video surveillance systems in large markets, laid down by Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 791 of 27 November 2024, were formulated by reference to facial identification; the parameters indispensable for gait analysis — frame rate, capture of a complete gait cycle and camera mounting height — are not established at the normative level at all.

Conclusion

Gait identification technologies have undergone a qualitative leap, uneven in character, the greater part of which falls within the period after 2023. The greatest criminalistic value of gait manifests itself not as an autonomous means of identification but as a modality complementing portrait examination. Habitoscopy has always regarded anatomical and functional features as an integral system, and the proliferation of the video recording as an object of examination makes it possible to overcome the historical disjunction between theory and practice. National legislation already affords a ready procedural form through the institution of complex examination; what is wanting is a methodology, a reference database, requirements for video material and a corresponding expert specialisation. We accordingly propose the following:

first, to include the field of "Identification of persons from video recordings" in the national list of types of forensic examination and expert specialisations;

secondly, to elaborate a methodology of complex examination uniting video-technical and biomechanical research on the basis of the proposed seven-stage model;

thirdly, to compile a reference database reflecting the frequency of occurrence of gait features among the population of Uzbekistan;

fourthly, to incorporate into the normative instruments establishing technical

requirements for video surveillance equipment those parameters which follow from the task of gait analysis;

fifthly, to introduce into Chapter 23 of the Criminal Procedure Code a provision governing the procedure for obtaining active samples;

sixthly, to determine the procedure for the use of automated recognition modules in operational-search activity, the procedural status of the algorithm's output being clearly fixed;

seventhly, to provide clarification at the level of the Plenum of the Supreme Court on the evaluation of expert opinions concerning the identification of persons from video recordings.

These measures will serve to realise the criminalistic potential of video surveillance systems, to enhance the detection of crimes committed by persons who have concealed their appearance, and to secure the scientific soundness of expert opinions.

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

INTERNATIONAL LAW CRISIS: UN PEACE OPERATIONS AND INSTITUTIONAL REFORM

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Abstract. *This study examines the effectiveness of the United Nations collective-security system in the twenty-first century, focusing on the relationship between Security Council decision-making, peace operations, and the implementation of international law. The relevance of the research is determined by the persistence of armed conflicts, the growing use of hybrid and cyber capabilities, and repeated disagreements among permanent members of the Security Council. The study applies formal-legal, systemic, comparative-legal, and institutional methods, supplemented by a structured review of selected UN peace operations and recent international legal and policy materials. The analysis demonstrates that the principal weakness of the present system is not the absence of international legal norms as such, but the fragmentation of mechanisms for collective implementation and the political dependence of coercive action on Security Council consensus. At the same time, the evidence does not support the conclusion that UN peace operations are generally ineffective: their contribution is more measurable in conflict containment, civilian protection, monitoring, mediation, and post-conflict institution-building than in the unilateral termination of wars. The study proposes a two-level reform approach combining feasible procedural changes in the Security Council with longer-term Charter reform, stronger mandate design, improved rapid-deployment capacity, and clearer accountability mechanisms. The findings may be used in international legal scholarship and in developing practical proposals for improving the legitimacy, responsiveness, and effectiveness of UN peace and security institutions.*

Keywords**:** *international law; United Nations; Security Council; peacekeeping; collective security; veto; institutional reform; conflict resolution.*

Introduction

The United Nations was created in the aftermath of the Second World War as the central institutional framework for maintaining international peace and security. The Charter of the United Nations, adopted on 26 June 1945 and entered into force on 24 October 1945, combines the prohibition of the threat or use of force, peaceful settlement of disputes, sovereign equality of States and collective measures against threats to peace. The Security Council was assigned primary responsibility for international peace and security, while the wider UN system was designed to connect security, human rights, development and international cooperation.

The contemporary problem is therefore not whether international law exists, but whether the institutional architecture created in 1945 can implement its legal purposes under conditions substantially different from those of the twentieth century. Armed conflicts increasingly involve non-State actors, fragmented command structures, information operations, cyber capabilities and transnational economic instruments. At the same time, political divisions among permanent members of the Security Council may prevent collective action precisely when a crisis requires rapid

and authoritative response. The 2024 Pact for the Future expressly recognizes the need to improve and democratize the working methods of the Security Council and strengthen its relationship with the General Assembly.

The research problem is formulated as follows: to what extent does the present UN institutional design limit the implementation of international law, and which reforms can increase the effectiveness of collective security without undermining the Charter-based distribution of powers?

The purpose of the study is to identify the legal and institutional factors that determine the effectiveness of UN peace and security mechanisms and to formulate feasible reform proposals. The study distinguishes between three dimensions of effectiveness: the capacity to prevent or contain violence; the capacity to implement authorized mandates; and the capacity to create conditions for durable political settlement.

The literature reflects two competing approaches. One emphasizes institutional paralysis, especially the veto and dependence on Member States for personnel and resources. Another cautions against treating the veto or peacekeeping as inherently ineffective. Recent research shows that peacekeeping can reduce conflict, while mandate fragmentation and deployment constraints can reduce implementation [7, pp. 664–680; 8; 9, pp. 671–686]. Legal scholarship likewise demonstrates that the veto should be assessed as a constitutional feature of the UN system rather than simply as a political defect [2, pp. 1089–1104; 3, pp. 3–22]. The present study combines these perspectives and argues that the crisis is best understood as a crisis of implementation capacity and institutional legitimacy rather than as a disappearance of international law.

Materials and methods

The object of the study is the institutional and legal framework of UN collective security. The subject consists of the rules governing the Security Council, the legal and operational characteristics of UN peace operations, and reform mechanisms developed by the Organization and Member States.

The formal-legal method was used to examine the Charter-based distribution of powers, particularly Articles 1, 2, 24, 25, 27, 39–42 and 51 of the Charter. The systemic method was applied to assess the interaction between the Security Council, General Assembly, Secretary-General and peace operations. The comparative-legal method was used to compare formal institutional rules with practical implementation in selected conflict settings. The institutional method was used to evaluate decision-making, mandate design, deployment capacity and accountability.

The empirical component is a structured review of selected UN operations and conflict-management cases, including Cyprus, Bosnia and Herzegovina, Croatia, Sierra Leone, Liberia, Mozambique, Rwanda, Lebanon, Cambodia and Timor-Leste. These cases were not selected to produce a statistical estimate of all UN operations; rather, they provide contrasting examples of containment, implementation, post-conflict transition and institutional failure. This limitation is important: the conclusions concern institutional patterns and legal mechanisms, not a causal claim about every UN operation.

The study also uses recent UN policy documents, including the Pact for the Future adopted on 22 September 2024 and General Assembly resolution A/RES/76/262 of 26 April

2022 concerning a standing mandate for a General Assembly debate when a veto is cast in the Security Council. Recent peer-reviewed scholarship on veto power, mandate implementation, peacekeeping effectiveness and the rule of law is used for comparison [3, pp. 3–22; 4, pp. 462–470; 7, pp. 664–680].

The reliability of the conclusions is strengthened by triangulation between primary legal materials, official UN materials and peer-reviewed academic research. At the same time, official UN assessments are not treated as independent proof of effectiveness; academic research is used to test broader claims about peacekeeping outcomes.

Results

The legal architecture remains valid, but implementation is politically fragmented.

The first result is that the basic legal architecture of collective security remains operational. The Charter gives the Security Council primary responsibility for international peace and security and requires Member States to carry out Council decisions under Article 25. Chapter VII provides a legal framework for determining threats to peace and adopting measures, including sanctions and, under specified conditions, authorization of force. Consequently, describing the international legal system as having "no enforcement mechanism" is inaccurate. The more precise conclusion is that enforcement mechanisms are institutionally concentrated and politically conditioned [6, pp. 395–432].

The Security Council's dependence on the agreement of permanent members is therefore a structural feature. Article 27 of the Charter requires an affirmative vote of nine members for substantive decisions, including the concurring votes of the permanent members. In practice, a negative vote by one permanent member can prevent adoption of a substantive draft resolution. The legal consequence is not that international law ceases to exist, but that a collective institutional response may be unavailable.

A second result follows: the effectiveness of international law should be separated from the effectiveness of a particular institution. International norms may continue to regulate State conduct even where the Security Council is unable to adopt a resolution. Judicial bodies, treaty mechanisms, diplomatic processes, regional organizations and the General Assembly may still contribute to implementation. The institutional crisis is therefore narrower and more accurately described as a crisis of collective enforcement and coordinated response.

The veto creates both a protection mechanism and a paralysis mechanism

The veto is frequently identified as the principal obstacle to Security Council effectiveness. However, a balanced legal assessment shows that it has two functions. First, it protects the participation of the major powers in the collective-security system and makes it less likely that the Organization will authorize coercive action directly against a permanent member or against an interest it considers vital. Second, the same feature can block collective action in situations involving serious humanitarian consequences.

Recent scholarship has proposed a more nuanced interpretation of Article 27(3), including renewed attention to the requirement that a party to a dispute should abstain in specified Chapter VI situations [3, pp. 3–22]. This illustrates that reform does not necessarily begin with formal amendment of the Charter. Some improvements can be pursued through interpretation, working

methods, procedural commitments and political practice.

General Assembly resolution A/RES/76/262, adopted on 26 April 2022, established a standing mandate for a General Assembly debate when a veto is cast in the Security Council. The mechanism does not abolish the veto and does not transfer Chapter VII powers to the General Assembly. Its significance lies in increasing transparency and political accountability by ensuring that the wider membership has an opportunity to debate the consequences of a veto.

The 2024 Pact for the Future further supports improvement of Security Council working methods and calls for credible, timely and decisive action to prevent or end genocide, crimes against humanity and war crimes. This indicates a gradual shift from purely structural reform toward procedural accountability.

Peacekeeping is more effective as conflict containment than as unilateral conflict termination.

The third result concerns the effectiveness of UN peace operations. The original article treated several missions mainly as examples of success or failure. A more accurate analytical approach is to distinguish the task performed by the mission from the final political outcome of the conflict.

The evidence from peer-reviewed research shows that UN peacekeeping can reduce violence and increase the probability of stabilization. Statistical research has identified substantial conflict-reducing effects, while other studies demonstrate that mandate fragmentation is negatively associated with mandate implementation, especially for peacebuilding tasks [7, pp. 664–680; 8; 10]. This means that an operation may be successful in protecting civilians or reducing violence even if it does not produce a final political settlement.

The current UN framework identifies three core principles: consent of the parties, impartiality, and non-use of force except in self-defence and defence of the mandate. These principles explain why peacekeeping should not be confused with peace enforcement. A peacekeeping operation is not designed simply to defeat one party militarily; its legitimacy depends upon a political process and an operational mandate.

Mandate fragmentation and deployment capacity are major institutional constraints.

A recurring practical limitation is the gap between the expectations placed upon a mission and the resources and mandate actually provided. Modern mandates may simultaneously require civilian protection, electoral support, disarmament, rule-of-law assistance, institution-building, monitoring and mediation. When these tasks are not sufficiently prioritized, the mission can become overstretched.

Research on UN peacekeeping has shown that fragmented mandates are associated with weaker implementation [7, pp. 664–680]. Another line of research demonstrates that rapid deployment depends on the incentives and capabilities of troop-contributing countries because the UN does not possess a permanent standing army [9, pp. 671–686]. Consequently, the Organization may have a legally valid mandate without having the operational capacity to implement it rapidly.

This finding changes the reform agenda. Merely expanding the formal authority of the Security Council is insufficient. Institutional effectiveness also depends on predictable financing, rapidly available personnel,

interoperable capabilities, reliable intelligence and realistic mandates.

Selected cases demonstrate different types of UN effectiveness.

The comparative review demonstrates four patterns. First, some operations contributed to the termination or stabilization of armed conflict and enabled political transition, as illustrated by Sierra Leone, Mozambique, Cambodia and Timor-Leste. Second, some operations primarily contained violence without resolving the underlying political dispute, as in Cyprus and Lebanon. Third, some missions experienced serious limitations when the political and military environment exceeded the mandate or willingness of Member States to act, with Rwanda and Somalia providing particularly important lessons. Fourth, the UN can contribute to post-conflict institution-building even when it is not the principal actor ending the conflict.

Table 1 summarizes selected cases not as a ranking, but as a functional classification.

New technologies require institutional adaptation rather than abandonment of existing law

The fourth major result is that technological change creates regulatory pressure but does not make the Charter obsolete. Cyber operations, autonomous systems, artificial intelligence, disinformation and private military capabilities complicate attribution, verification and proportionality. Nevertheless, the core principles of sovereignty, non-intervention, non-use of force and peaceful settlement remain relevant.

The more urgent problem is institutional capacity to establish facts quickly and credibly. In contemporary crises, the interval between an incident and a political response may be shorter than the time required for traditional fact-finding. UN peace operations and the wider UN system therefore require improved real-time observation, digital verification, open-source analysis and protection against information manipulation. Technological modernization should, however, remain subject to international legal standards and should not become a substitute for political settlement.

The principal reform problem is therefore institutional, not purely normative.

The results permit the central conclusion of the study to be formulated more precisely: the UN does not suffer from a complete normative vacuum. Rather, it suffers from a mismatch between universal legal objectives and fragmented institutional capacity. Four gaps are particularly significant: decision-making paralysis; insufficient rapid-deployment capacity; mandate-resource mismatch; and weak accountability for failures of collective action.

This diagnosis allows reform proposals to be separated into realistic short-term measures and long-term structural measures. Short-term measures include improved working methods, greater transparency after vetoes, stronger interaction with the General Assembly, more realistic mandates and improved deployment arrangements. Long-term measures concern the composition and powers of the Security Council and therefore require the Charter amendment procedures.

Discussion

The findings partly confirm and partly qualify the common argument that the UN is experiencing a “crisis of international law.” The argument is persuasive if the term is used to describe a crisis of institutional implementation. It is less persuasive if it

implies that international law has lost its normative force.

First, the veto should not be characterized exclusively as an illegitimate privilege. The historical structure of the Charter reflects the political bargain that made the collective-security system possible. Legal scholarship has therefore warned against assuming that abolishing or radically restricting the veto would automatically increase stability [2, pp. 1089–1104; 4, pp. 462–470]. At the same time, the veto becomes problematic when it prevents the Council from responding to grave violations while providing no adequate accountability mechanism. The appropriate objective is consequently not the elimination of the veto by rhetoric, but the reduction of its destabilizing effects through procedural restraints, transparency and political accountability.

Second, the study supports the literature showing that peacekeeping can work. The original article's formulation that the UN "lacks enforcement mechanisms" was too broad. The UN has coercive legal mechanisms under Chapter VII, but their activation depends on the Council's political decision and their implementation depends heavily on Member States. The distinction is important because it prevents an empirical limitation from being mistaken for a legal absence [6, pp. 395–432].

Third, the comparison of Kosovo and Crimea in the original version illustrated concerns about selective application of international law but risked presenting highly complex and contested cases as if they were legally identical. The revised approach therefore treats such comparisons as evidence of perceived inconsistency rather than proof that identical legal situations receive identical treatment. This distinction improves methodological neutrality and avoids reducing international law to geopolitical narratives.

Fourth, peacekeeping effectiveness should not be assessed solely by whether a mission achieves a final settlement. Empirical research indicates that missions may reduce violence, increase cooperation and strengthen the rule of law without resolving every political cause of conflict [8; 10; 13, pp. 51–68]. The relevant question is whether the mission achieved the tasks that its mandate, resources and political context made realistically possible.

The principal scientific contribution of the study is a functional model of UN effectiveness consisting of three levels: institutional authorization, operational implementation and political sustainability. Failure at any level can reduce overall effectiveness. A legally valid resolution without resources is ineffective operationally; a well-resourced mission without political support cannot ensure a sustainable settlement; and a political settlement without institutional implementation may collapse.

The study also identifies a practical barrier to reform: the most ambitious reforms require the consent of the very States whose institutional privileges would be affected. Recent reform debates therefore emphasize the tension between formally ambitious proposals and politically feasible procedural reforms [2, pp. 1089–1104]. This supports a two-track strategy. The first track should implement changes that do not require Charter amendment. The second should continue long-term negotiations on Council representation and veto arrangements.

On this basis, five practical proposals are advanced. First, veto use should be accompanied by a structured legal and political

explanation identifying the principal reasons and the relationship of the draft resolution to the Charter. Second, the General Assembly's post-veto debate mechanism should be used systematically to increase transparency. Third, peacekeeping mandates should be shorter, prioritized and linked to measurable benchmarks and transition plans. Fourth, the UN should strengthen pre-authorized rapid-deployment capacities through predictable arrangements with troop- and police-contributing States. Fifth, the Organization should establish stronger independent assessment of mandate implementation and civilian-protection performance.

These proposals do not eliminate political disagreement. Their purpose is narrower: to reduce the institutional cost of disagreement while preserving the Charter's basic structure. This is preferable to a theoretical reform model that assumes political consensus where none currently exists.

Conclusion

The study demonstrates that the crisis of the contemporary international legal order should not be understood as the disappearance of international law. The central difficulty lies in the gap between universal legal obligations and the institutional mechanisms available for collective implementation.

The Security Council remains the principal organ responsible for international peace and security, but its decision-making system can be paralyzed by disagreement among permanent members. The veto is simultaneously a constitutive element of the post-1945 security architecture and a potential source of institutional paralysis. Recent procedural developments, including General Assembly resolution A/RES/76/262 and the 2024 Pact for the Future, show that meaningful improvement is possible even without immediate Charter amendment.

UN peace operations should likewise be assessed according to the tasks they are legally and operationally capable of performing. Their strongest contribution is often conflict containment, civilian protection, monitoring, mediation and institutional transition rather than the direct military termination of conflict. The evidence therefore supports neither an idealized view of peacekeeping nor the conclusion that peacekeeping is inherently ineffective.

The principal reform priority should be to narrow the gap between mandate, resources and political support. Security Council mandates should be realistic, prioritized and accompanied by clear transition strategies. Rapid-deployment capacity should be strengthened through predictable arrangements with Member States. The General Assembly should continue to enhance transparency following vetoes, while longer-term negotiations should address representation and other structural issues.

The adaptation of international law to cyber operations, artificial intelligence, information warfare and other emerging technologies should proceed through clarification and institutional capacity-building rather than abandonment of established principles. The Charter's principles remain relevant; what requires modernization is the ability of international institutions to apply them quickly, consistently and credibly.

The proposed reform model is therefore incremental but structural: improve Security Council working methods in the short term, strengthen peace-operation capacity and accountability, and pursue Charter reform as a long-term political-legal project. Such an

approach preserves the universal character of the UN while addressing the institutional weaknesses that currently limit the effectiveness of collective security.

Table 1. Selected UN peace operations and principal institutional outcomes

Case	Operation	Period	Principal contribution
Cyprus	UNFICYP	1964–present	Long-term containment and monitoring
Bosnia and Herzegovina	UNPROFOR and subsequent international arrangements	1992–1995	Humanitarian and security functions; broader political settlement
Croatia	UNTAES	1996–1998	Transitional administration and reintegration
Sierra Leone	UNAMSIL	1999–2005	Peace implementation and stabilization
Liberia	UNMIL	2003–2018	Security, peacebuilding and institutional support
Mozambique	ONUMOZ	1992–1994	Support during transition from civil war
Rwanda	UNAMIR	1993–1996	Severe protection failure during genocide
Timor-Leste	UNTAET	1999–2002	Transitional administration and institution-building

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

ARTIFICIAL INTELLIGENCE AND CHILDREN'S RIGHTS: PROTECTION OPPORTUNITIES AND EMERGING LEGAL RISKS

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Abstract. *This study examines the impact of artificial intelligence technologies on children's rights and legitimate interests from the perspective of both protection opportunities and emerging risks. The study employs normative-legal, comparative-legal, systematic, and analytical methods. It examines the potential of artificial intelligence to individualize education, expand inclusive opportunities for children with disabilities, facilitate access to information, and enhance child safety, as well as the risks associated with the protection of personal data, privacy, algorithmic discrimination, errors in automated decision-making, deepfake technologies, artificial intelligence-based chatbots, and digital profiling. Particular attention is paid to the importance, in the context of artificial intelligence, of the principles established by the United Nations Convention on the Rights of the Child, including the primary consideration of the best interests of the child, non-discrimination, the right to life and development, and the child's right to express their views freely. The study also examines the approaches of the United Nations Children's Fund and the United Nations Educational, Scientific and Cultural Organization to children and artificial intelligence, as well as the legal mechanisms being developed in Uzbekistan. The findings demonstrate that it is one-sided to regard artificial intelligence itself as either a technology that protects children's rights or one that creates risks. Its impact depends on the purpose of the technology, the data used, the decision-making mechanism, and the extent of human oversight. On this basis, the study proposes preliminary child rights impact assessments, meaningful human oversight, data minimization, age-appropriate design, and consideration of the child's views as safeguards for protecting children's rights in the context of artificial intelligence.*

Keywords**:** *child rights, artificial intelligence, digital rights, personal data, algorithmic discrimination, deepfake, child safety, digital education.*

Introduction

Artificial intelligence (AI) is increasingly becoming part of children's everyday lives. Children use AI systems for educational activities, information retrieval, language learning, creative tasks, communication and, in some cases, advice concerning personal problems. Recent UNICEF evidence demonstrates the scale and speed of this development. According to UNICEF, an analysis based on data from ten countries estimates that at least 20 million children have used AI, while children in some contexts are adopting these technologies at rates more than three times faster than adults. The same evidence indicates that approximately 13 million children use AI to support learning and homework, while more than 2 million children report turning to AI for advice concerning matters that worry them [1]. UNICEF

These developments demonstrate that AI is no longer merely a prospective technology for future generations. It is already influencing childhood. At the same time, children cannot be regarded simply as ordinary users of digital technologies. Their age, developmental stage, limited ability to assess long-term consequences and particular dependence on adults may increase their vulnerability to privacy violations, manipulation,

discrimination and erroneous technological decisions. The legal assessment of AI therefore requires a child-rights-centred approach. The United Nations Convention on the Rights of the Child (CRC) establishes fundamental principles that remain applicable in digital environments, including non-discrimination, the right to life, survival and development, the best interests of the child as a primary consideration, and the child's right to express views freely in matters affecting them [2]. The Committee on the Rights of the Child has further emphasized that children's views must be given due weight in accordance with their age and maturity [3]. The best interests principle operates simultaneously as a substantive right, a fundamental interpretative principle and a procedural rule guiding decisions concerning children [4].

The rapid development of AI creates both opportunities and risks in relation to these principles. AI may facilitate individualized education, accessibility and access to information. However, the same technologies may generate risks related to excessive data collection, profiling, algorithmic discrimination, automated decision-making, manipulation and synthetic media. Recent scholarship similarly emphasizes that AI systems should be considered in the context of children's human rights rather than solely through technological or economic perspectives. Research has highlighted the need to place children at the centre of AI governance and to provide them with meaningful opportunities to participate in decisions concerning technologies that affect their lives [5]. Other studies have emphasized that translating general ethical principles into practical safeguards for children remains a significant regulatory challenge [6].

Against this background, the purpose of this study is to determine how AI affects children's rights, identify the principal legal risks associated with its use, examine the adequacy of existing international approaches and assess the emerging legal framework of Uzbekistan. The central research question is whether AI should be understood primarily as an instrument for protecting children's rights or as a source of new legal risks. The study proceeds from the hypothesis that neither characterization is sufficient on its own. The legal consequences of AI depend on the purpose, design, data, decision-making mechanisms, degree of transparency and human oversight associated with a particular system.

Materials and methods

The study employs normative-legal, comparative-legal, systematic and analytical methods. The normative-legal method was used to examine international child-rights standards, including the Convention on the Rights of the Child and the interpretative approaches of the Committee on the Rights of the Child, as well as the emerging legal framework of Uzbekistan concerning artificial intelligence.

The comparative-legal method was applied to compare international approaches developed by UNICEF and UNESCO with the regulatory principles emerging in Uzbekistan. Particular attention was given to the principles of human oversight, data minimization, non-discrimination, transparency, accountability and child participation. The systematic method was used to examine AI as a sociotechnical phenomenon affecting several interconnected areas of children's rights, including education, privacy, personal data protection, equality, freedom of expression, safety and access to

justice. The analytical method was used to identify the relationship between technological opportunities and legal risks and to formulate proposals for strengthening safeguards applicable to AI systems affecting children. The empirical basis of the study consists of international legal instruments, reports and guidance documents issued by UNICEF and UNESCO, relevant scholarly literature, and legislation and regulatory instruments of the Republic of Uzbekistan concerning artificial intelligence and personal data.

Results

1. Artificial Intelligence as an Instrument for Expanding Children's Rights

It would be incorrect to assess AI exclusively through the prism of risks. Properly designed and appropriately supervised AI systems may contribute to the realization of children's rights, particularly the right to education and the principle of inclusion.

UNESCO notes that AI may provide opportunities for personalized learning and broader access to education, while simultaneously creating risks associated with inequality, privacy, safety, ethics and governance [7]. UNESCO

In a conventional classroom, students naturally differ in their level of knowledge, learning speed, reading ability and preferred methods of acquiring information. AI systems can assist teachers by identifying learning gaps, generating supplementary exercises, providing alternative explanations and adapting educational materials to individual needs.

AI may also improve educational accessibility for children with disabilities. Technologies such as speech-to-text, text-to-speech, automatic translation, image description and other assistive functions can reduce barriers to participation in educational processes. UNICEF similarly identifies accessibility and support for learning as important potential benefits of child-centred AI [8]. However, these benefits should not be interpreted as justification for replacing teachers with automated systems. AI can identify patterns in educational data, but it cannot necessarily understand the complete social, emotional and psychological circumstances of a child. UNESCO's guidance on generative AI therefore emphasizes a human-centred approach in which technology supports, rather than replaces, human agency [9].

2. Personal Data, Privacy and Digital Profiling

One of the most significant legal issues concerns the volume and nature of data processed by AI systems. Depending on the application, information relating to children may include names, age, photographs, voice recordings, educational performance, health information, behavioural characteristics, interests and family circumstances.

UNICEF emphasizes that children's data may include information directly provided by children, information collected about them and information inferred through algorithms and AI systems [8]. This creates a particular legal concern because children may not fully understand how information concerning them can be collected, combined, analyzed and used in the future. The principle of data minimization is therefore particularly important. AI systems affecting children should process only information that is necessary and proportionate to a clearly defined and legitimate purpose. The collection of additional information merely because it may be technologically useful should not be treated as sufficient justification.

Recent academic research has likewise identified children's data collection as a significant concern where predictive technologies are used to make or influence decisions affecting children [10].

The issue is also relevant to Uzbekistan. The Law of the Republic of Uzbekistan of 21 January 2026 No. LRU-1115 introduced provisions specifically addressing relations arising from the use of AI and established safeguards concerning AI-based decision-making and unlawful processing of personal data [11]. The amendments form part of Uzbekistan's emerging statutory framework for AI regulation. Dentons

The collection of more information in the name of child protection does not automatically result in greater protection of children's rights. Continuous monitoring of a child's online activity, for example, may reduce certain safety risks while simultaneously creating disproportionate interference with privacy, autonomy and freedom of expression. Effective regulation must therefore maintain a proportionate balance between protection and privacy.

3. Algorithmic Discrimination and Automated Decisions

AI systems are often perceived as objective because their outputs are generated through automated processes. Automation, however, does not itself guarantee fairness.

Where training data contains existing social, economic or cultural inequalities, an AI system may reproduce or amplify those patterns. UNICEF therefore emphasizes the importance of testing AI systems for accuracy, representativeness and fairness [8]. For example, an educational AI system may evaluate a student's previous grades, attendance and activity and generate recommendations concerning future educational opportunities. If the underlying dataset reflects socioeconomic inequalities, the resulting recommendation may reproduce those inequalities rather than correct them.

The issue is particularly important for children because an automated classification may affect access to education, social services or other opportunities at an early stage of life. A technological classification made during childhood may consequently have effects that extend far beyond the original decision.

Uzbekistan's emerging AI framework recognizes the importance of human responsibility and oversight. The Law No. LRU-1115 establishes that when legally significant decisions affecting human rights and freedoms are made, exclusive reliance on conclusions generated by AI-based information resources and information systems is not permitted [11]. Dentons This principle has direct relevance to children. An AI-generated conclusion concerning a child's educational capacity, risk status or other legally significant circumstance should not automatically determine the child's legal position.

4. Human Oversight and the Judicial Protection of Children's Rights

The requirement of human oversight becomes particularly important in the judicial and legal sphere. A judge cannot delegate the legal responsibility for a decision to an algorithm. Where AI is used to analyze information relevant to a case involving a child, its output should be treated as an assisting analytical instrument rather than as determinative evidence. The judge must independently evaluate the available evidence, consider the individual circumstances of the child and apply the principle of the best

interests of the child. This approach is consistent with the broader principle that children's rights require individualized assessment. An algorithm may identify patterns, but it cannot independently assume the legal and moral responsibility associated with a judicial decision. The ethical rules adopted in Uzbekistan for AI-based solutions also emphasize human responsibility and oversight. The relevant regulatory framework provides that AI-generated decisions should not be treated as final decisions and that human control must be maintained [12].

Accordingly, the use of AI in judicial proceedings involving children should be accompanied by at least four safeguards: human verification of AI-generated conclusions, protection of children's personal data, documentation of AI use, and an effective mechanism for challenging AI-assisted conclusions.

5. AI Chatbots and Children's Psychological Vulnerability

The development of generative AI has created another important category of risk. Children increasingly interact with AI chatbots not only for factual information but also for advice concerning school, friendship, family relations, fears and personal problems.

The legal significance of this development lies in the distinction between an information source and an interactive system that may influence behaviour. A child may attribute authority or emotional reliability to an AI system even though the system lacks human understanding and responsibility. UNICEF has emphasized that children may be particularly vulnerable to forming attachments to AI companions and chatbots and has stressed the importance of clearly communicating that such systems are not human [8].

Accordingly, AI systems intended for children should use age-appropriate interfaces, clearly disclose their artificial nature and incorporate safeguards against harmful, manipulative or developmentally inappropriate responses. AI should also support rather than undermine children's independent cognitive and socio-emotional development. Excessive reliance on automated assistance may reduce opportunities for children to develop critical thinking, problem-solving and independent decision-making abilities.

UNESCO's AI Competency Framework for Students similarly emphasizes critical judgement, ethical awareness and responsible engagement with AI [13].

6. Deepfakes and New Forms of Harm to Children

Deepfake technology creates particularly serious risks for children because photographs, voices and videos can be manipulated or generated to produce highly realistic false content. The problem is not limited to material created by children themselves. Images previously shared online may potentially be collected, manipulated and incorporated into harmful synthetic content without the child's knowledge.

UNICEF's February 2026 issue brief identifies AI-generated child sexual abuse material as a significant escalation of risks to children and calls for stronger legal and technical safeguards [14]. UNICEF This development creates challenges not only for child protection but also for the justice system. Courts increasingly need to assess the authenticity, provenance, integrity and context of digital evidence. Where a child is involved as a victim or witness, manipulated audio, photographic or video material may directly affect their rights and interests. Consequently,

AI-generated or AI-modified evidence should be subject to careful human examination. Automated detection tools may assist in identifying manipulation, but their conclusions should not themselves be treated as infallible.

7. Children's Digital Identity and the Right to Challenge Automated Profiles

A child's digital identity may increasingly be constructed from information generated through online activity. Photographs, writing styles, educational results, interests, behavioural patterns and social connections may be analyzed by AI systems to produce profiles or predictions. This creates an important legal question: if an AI system incorrectly classifies a child as an underperforming student, a problematic user or a member of a particular risk group, what mechanism allows the child or their legal representative to challenge and correct that classification?

UNICEF emphasizes children's agency over their personal data, including their ability, according to age and maturity, to understand, control, access and delete relevant information [8]. The development of effective correction and challenge mechanisms is therefore essential. Children and their legal representatives should have an opportunity to request human review of significant AI-generated conclusions and to seek correction of inaccurate data.

8. The Risk of a New Digital Divide

AI can expand educational opportunities, but unequal access to AI may also deepen existing inequalities.

UNESCO has emphasized that the digital divide may develop into an AI divide, particularly affecting rural communities, persons with disabilities and socially disadvantaged groups [7]. UNESCO Consider two schools. In the first, students have reliable internet access, modern devices and access to AI-assisted learning tools. In the second, internet access is limited, devices are scarce and teachers have insufficient access to AI technologies. Students in the first school may obtain individualized exercises, language-learning support and additional educational resources that are unavailable to students in the second. AI should therefore be incorporated into educational policy in a manner that promotes equality rather than merely increasing technological capacity for already advantaged groups.

DISCUSSION

The results demonstrate that the central legal problem is not whether AI is inherently beneficial or harmful. The more appropriate question is whether a particular AI system is designed, deployed and governed consistently with children's rights. The child-rights approach differs from a purely technology-centred approach because it begins with the child as a rights-holder rather than merely as a user or source of data. Contemporary scholarship similarly argues that children's rights should be incorporated directly into AI governance and system design [5, 6]. The principle of the best interests of the child is particularly important in this context. It cannot be reduced to an abstract ethical preference. Where an AI system affects a child's education, health, social protection, safety or legal position, the child's best interests should be assessed as part of the decision-making process.

At the same time, the principle of participation requires that children themselves should not be excluded from discussions concerning technologies that affect them. Research on children's participation in AI policy demonstrates that children's voices are frequently underrepresented and that co-

creative approaches may strengthen child-inclusive AI governance [5].

This is particularly important for Uzbekistan. The country's AI regulatory framework is developing rapidly, including the adoption of Law No. LRU-1115 and subsequent ethical regulation of AI-based solutions [11, 12]. These developments establish important general safeguards, but children require additional protection because of their age, developmental characteristics and heightened vulnerability. The existing framework should therefore be supplemented with child-specific mechanisms.

First, a child-rights impact assessment should be introduced for AI systems that are likely to have a significant direct or indirect impact on children. Such assessment should consider the categories of data collected, the purposes of processing, potential discriminatory effects, error rates, consequences of incorrect decisions and possible long-term effects on the child's development.

Second, meaningful human oversight should be mandatory for decisions concerning fundamental rights and interests of children. Human review should be substantive and capable of changing or rejecting an AI-generated recommendation.

Third, data minimization and privacy by design should become mandatory elements of systems intended for children. The system should not collect or retain information merely because it may be useful for future algorithmic processing.

Fourth, age-appropriate design should be required. Children should be informed in language appropriate to their age that they are interacting with AI and should be provided with safeguards against inappropriate or manipulative interaction.

Fifth, the child's right to be heard should be incorporated into AI governance. Depending on age and maturity, children should have an opportunity to express their views concerning the use of AI systems that significantly affect them.

Sixth, effective challenge and correction mechanisms should be established. A child or legal representative should be able to request human review of a significant AI-generated conclusion and correction of inaccurate information.

Seventh, AI literacy should be strengthened. Children should be educated not only in the technical use of AI but also in understanding its limitations, possible errors, data risks, deepfakes, misinformation, manipulation and algorithmic discrimination [13].

Eighth, special safeguards should apply to AI in the judicial and legal system. These should include verification of AI-generated evidence, documentation of AI use, protection of children's personal data, human assessment of algorithmic outputs and a clear prohibition on treating AI-generated conclusions as determinative in decisions affecting children's fundamental rights.

These responsibilities cannot be assigned exclusively to the state. Effective protection requires cooperation between public authorities, technology developers, schools, parents, teachers, legal professionals, civil society and children themselves.

Conclusion

Artificial intelligence is already part of children's everyday lives and will continue to influence education, communication, information access, creativity and interactions with public and private services. Its development therefore requires a legal

approach that recognizes both its potential benefits and its capacity to create new risks.

The study demonstrates that AI cannot be classified exclusively as a technology that either protects or threatens children's rights. Its effects depend on the purpose of deployment, the data used, the structure of decision-making, the transparency of the system and the degree of human oversight.

AI can contribute to the realization of children's rights by supporting individualized education, improving accessibility for children with disabilities, expanding access to information and assisting in the identification of certain risks. At the same time, it may generate serious threats to privacy, equality, personal data protection, freedom of expression and psychological well-being and may facilitate discriminatory profiling, erroneous automated decisions, deepfakes and other forms of digital harm.

The central legal principle should therefore be that technological efficiency cannot override children's rights. The best interests of the child, non-discrimination, development, participation and effective protection must remain central to the design and use of AI systems affecting children.

For Uzbekistan, the emerging legal framework provides an important foundation for further development. However, general AI regulation should be complemented by child-specific safeguards. In particular, it is advisable to introduce mandatory child-rights impact assessments, meaningful human oversight, data minimization, age-appropriate design, effective challenge mechanisms, child participation and specialized safeguards for AI used in judicial and legal contexts.

The judicial system has a particularly important role in this process. When AI is used in proceedings affecting children, technological conclusions must remain subordinate to individualized judicial assessment and human legal responsibility. An algorithm cannot replace a judge's responsibility to protect the rights and legitimate interests of a child.

The objective of AI governance should therefore not be to maximize automation, but to ensure that technological development remains compatible with dignity, equality, safety, participation and the best interests of every child.

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

ACTIVITIES OF INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS IN THE FIELD OF HUMAN RIGHTS

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Abstract. *This article analysed the legal nature, concept, and role of non-governmental non-profit organizations (NGOs) in the protection of human rights. The relevance of the study is determined by the growing role of NGOs as important institutions of civil society in ensuring and protecting human rights and fundamental freedoms. The research employs comparative-legal, historical-legal, and analytical methods to examine the activities and legal foundations of human rights NGOs in Uzbekistan and internationally. The study analyzes the organizational structures and protection mechanisms of major international organizations, including Amnesty International, Human Rights Watch, Civil Rights Defenders, Global Rights, UN Watch, and the International Federation for Human Rights (FIDH). It also considers the importance of international legal instruments, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The findings may contribute to improving the legal and organizational framework of human rights NGOs in Uzbekistan and strengthening their cooperation with international organizations. The study concludes that human rights NGOs play an important role in identifying violations, promoting legal awareness, providing protection, and strengthening civil society.*

Keywords**:** *international NGO, human rights NGO, international organization, UN, DHRF, human rights defender.*

Introduction. Ensuring human rights and freedoms is a primary objective of any democratic, rule-of-law-based state, and in this sphere, non-governmental non-profit organizations (NGOs) emerge as a vital social institution.

The Law of the Republic of Uzbekistan "On Non-Governmental Non-Profit Organizations" stipulates: "A non-governmental non-profit organization is a self-governing organization voluntarily established by individuals and (or) legal entities, which does not have the primary objective of generating income (profit) from its activities, nor does it distribute any income (profit) received among its participants (members).

A non-governmental non-profit organization is formed to protect the rights and legitimate interests of individuals and legal entities, to uphold other democratic values, to achieve social, cultural, and educational goals, to satisfy spiritual and other non-material needs, to conduct charitable activities, and for other socially beneficial purposes (1999)".

The protection of human rights is among the functions of non-governmental non-profit organizations (NGOs). In addition, there are NGOs that specifically focus on the protection of human rights, established to support and strengthen individuals' rights and legitimate interests and to promote respect for human dignity and honor.

There is no precise definition of a human rights NGO in national legal sources. However, the concepts of a human rights advocacy group or human rights organization are used in the research and scholarly works of foreign academics.

Scholars have also examined the legal status and role of human rights NGOs under international law. Idowu Mopelola Ajibade emphasizes that human rights NGOs have become increasingly important actors at both the international and national levels, particularly through their contribution to the development of human rights treaties, principles, and standards[1, pp. 13]. However, he notes that their legal status under international law remains largely informal and insufficiently defined. William Korey similarly highlights the significant role of NGOs in the development of the international human rights system, particularly their contribution to the creation of international human rights standards, the development of legally binding treaties, and the dissemination of information concerning human rights violations [2, pp. 151–174].

A human rights advocacy group or human rights organization is a non-governmental organization (NGO) engaged in the protection of human rights. It operates by identifying human rights violations, collecting and analyzing information on such violations, and increasing public awareness through the dissemination of this information.

An international NGO is an NGO whose activities, in accordance with its charter and the legislation of the Republic of Uzbekistan, may be carried out within the territory of the Republic of Uzbekistan and in one or more foreign states (2014).

Accordingly, based on national legislation, an international NGO may be defined as: "an independent institution of civil society that is not established by states, is created voluntarily on the initiative of individuals and/or legal entities, does not pursue profit as its primary objective, operates on the principle of self-governance, and carries out activities in the field of human rights, social welfare, culture, education, and other public interests in the territories of two or more states."

Although the concept of NGOs engaged in the protection of human rights is not explicitly defined in international law, the concept of human rights defenders exists and may be considered consistent in substance with the role of such NGOs.

Article 1 of the Declaration on Human Rights Defenders (DHRF), adopted by the United Nations General Assembly on 9 December 1998, provides that: "Everyone has the right, individually and in association with others, to promote and strive for the protection and realization of human rights and fundamental freedoms"[3, pp 1-2].

Accordingly, such an individual or a group of individuals may be regarded as human rights defenders. Any person or organization that promotes and protects rights, including NGOs, may be considered a human rights defender.

The documents of the Organization for Security and Co-operation in Europe (OSCE) and the decisions of the Council of Europe also support the activities of civil society and NGOs in the field of human rights.

Methods. This study employs a combination of comparative-legal, historical-legal, and analytical research methods to examine the activities of international non-governmental organizations in the field of human rights protection.

Results and Discussions. Based on the research findings discussed above, we will examine several international organizations engaged in the protection of human rights, as well as some NGOs operating in Uzbekistan

that work in the field of human rights protection.

Amnesty International was founded in 1961 in London, United Kingdom. It is a non-governmental organization that operates independently of any political ideology, religion, or economic interest. Today, Amnesty International is a global movement comprising more than 10 million people.

The primary objective of Amnesty International is to protect and promote human rights. The organization also performs a number of important functions, including:

• Building a society in which the dignity and rights of every individual are protected;

• Ensuring the practical implementation of the rights enshrined in the Universal Declaration of Human Rights and other international legal instruments;

• Combating torture, unlawful detention, political persecution, and restrictions on freedom of expression [4].

Amnesty International carries out its activities on the basis of the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the Convention against Torture (1984), and other international and regional treaties, particularly those relating to the rights of children, women, and migrants.

Thus, Amnesty International is a major human rights organization whose work covers a broad spectrum of human rights issues, ranging from securing the release of prisoners to protecting sexual and reproductive rights.

Human Rights Watch is an independent international non-governmental organization dedicated to the protection of human rights. It was established in 1978. Initially known as Helsinki Watch, it was created to monitor governments' compliance with the 1975 Helsinki Accords in Soviet bloc countries and to support civil society groups.

The organization publicly exposed cases of human rights violations through the media by "naming and shaming" those responsible. By drawing the attention of the international community to human rights abuses in the Soviet Union and Eastern European countries, the organization contributed to the powerful democratization processes that took place in the late 1980s.

In 1981, during the period of bloody civil wars in Central America, Americas Watch was established. Relying on extensive fact-finding missions, it investigated and publicized not only human rights violations committed by governments but also war crimes committed by insurgent groups, in accordance with international law.

During the 1980s, Asia Watch (1985), Africa Watch (1988), and Middle East Watch (1989) were established and, together with the earlier committees, became known as The Watch Committees. In 1988, the organization officially adopted the name Human Rights Watch. It subsequently expanded its scope of activities and actively cooperated with international and regional organizations, including the United Nations and the European Union[5].

The organization broadened its work to include the protection of the rights of women, children, refugees, and migrant workers. It has sought to identify and address human rights violations such as domestic violence, human trafficking, rape, and the forced recruitment of children into military service.

Thus, Human Rights Watch is an international non-governmental organization dedicated to protecting human rights, monitoring human rights abuses worldwide,

and preparing reports on such violations. Today, the organization employs approximately 450 experts, lawyers, journalists, and human rights advocates.

Civil Rights Defenders is an independent international human rights organization that was originally established in 1982 under the name Swedish Helsinki Committee for Human Rights. It is currently based in Stockholm, Sweden.

Its primary mission is to cooperate with and support human rights defenders operating in some of the world's most repressive states[6].

Accordingly, the organization works closely with human rights defenders who advocate for civil and political rights, protects the rights of individuals suffering under highly oppressive regimes, and provides support to those engaged in human rights advocacy.

It is also worth noting that the organization currently conducts monitoring activities in some of the world's most repressive regions and collaborates with more than 200 local partners, focusing on innovation and sustainable change. The organization is also actively engaged in expanding and strengthening citizens' access to justice and freedom through the promotion and protection of civil and political rights.

Global Rights is an international non-governmental human rights organization founded in Washington, D.C., in 1978. In 2014, the organization relocated its headquarters to Nigeria and currently works with local activists across Africa, Asia, and Latin America to protect the rights of communities and individuals. The organization focuses on providing assistance to disadvantaged and marginalized populations. It also trains other organizations and communities to document and expose human rights violations and to provide legal services to those in need[7].

Thus, Global Rights primarily concentrates on interconnected issues such as women's rights, human rights security, and the governance of natural resources.

UN Watch is a non-governmental organization based in Geneva, Switzerland. It was founded in 1993 by the prominent civil rights advocate Morris B. Abram, who served as the United States Permanent Representative to the United Nations in Geneva.

The organization operates as an NGO accredited with special consultative status to the United Nations Economic and Social Council (ECOSOC) and as an associated NGO with the United Nations Department of Public Information (DPI).

Its principal objective is to help "save succeeding generations from the scourge of war" and to contribute to the creation of a more just world[8].

Thus, this organization was established to promote the protection of the universal rights enshrined in the Universal Declaration of Human Rights and to monitor the activities of the United Nations in accordance with the principles and objectives of the UN Charter.

The International Federation for Human Rights (FIDH) is an international non-governmental human rights organization that brings together 188 member organizations and maintains a presence in 116 countries. Since 1922, it has actively worked to protect and promote respect for the civil, political, economic, social, and cultural rights set forth in the Universal Declaration of Human Rights. The organization operates through close cooperation with its member organizations[9].

To prevent human rights violations, the organization employs various mechanisms,

including rapid response actions, fact-finding missions, legal protection and advocacy, dialogue, litigation support, and public awareness campaigns. The primary objective of the organization is to assist victims of human rights violations and to ensure accountability for those responsible for international crimes[10].

International legal instruments also constitute an important foundation for the establishment and development of NGOs. In particular, reliance is placed on such instruments as the Universal Declaration of Human Rights (1948)[11], adopted by the United Nations General Assembly, the International Covenant on Civil and Political Rights (1966) [12], and the International Covenant on Economic, Social and Cultural Rights (1966) [13]. Therefore, NGOs engaged in the protection of human rights are required to operate not only in accordance with national legislation but also in compliance with international legal standards.

As an important mechanism connecting society and the state, NGOs continue to contribute significantly to the development of civil society.

Conclusion. As noted above, NGOs that protect human rights may also operate on the basis of international legal norms. In particular, the fact that the Republic of Uzbekistan accepted the principles contained in the Universal Declaration of Human Rights in 1994 and acceded to the International Covenant on Civil and Political Rights in 1995 indicates the existence of international obligations in this field. These commitments provide a legal basis for NGOs to cooperate with international organizations, conduct legal monitoring, and promote the principle of equality.

By enhancing legal awareness, identifying instances of human rights violations, monitoring judicial and legal reforms, and ensuring legal protection for the population, NGOs in the field of human rights contribute not only to the development of the rule of law but also to the strengthening of civil society. In this regard, their organizational and legal foundations occupy an important place not only within national legal systems but also within the framework of international legal norms.

Based on the findings of this study, several recommendations can be proposed. First, a distinct legal status for human rights NGOs should be established within the national legal framework, clearly defining their rights, responsibilities, and guarantees for carrying out human rights activities. Second, institutional cooperation and public monitoring mechanisms between government authorities and NGOs should be strengthened to facilitate their participation in human rights monitoring, legislative processes, and the implementation of human rights policies. Third, legal monitoring, advocacy, and legal assistance mechanisms should be further developed by drawing on the best practices of international human rights NGOs and adapting them to the national context of Uzbekistan.

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