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ISSUES IN IMPROVING THE MECHANISM FOR RESOLVING DISPUTES ARISING FROM PUBLIC PROCUREMENT CONTRACTS

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Abstract. *Public procurement contracts create many disputes, and the way these disputes are resolved affects both the state budget and business confidence. This study examines four practical problems in the national mechanism and proposes targeted solutions drawn from foreign practice. The first problem is the absence of an automatic standstill period between the award decision and contract formation, which limits the procedural interval available before the contract becomes binding. The second problem concerns the effectiveness and enforceability of the existing review mechanism, although it provides for the suspension of the procurement procedure once a complaint has been accepted for consideration. The third problem is institutional. The involvement of electronic system operators in the review framework may raise concerns about the institutional independence of the complaint review mechanism. The fourth problem is that court proceedings are slow and the state duty is costly, while mediation and arbitration remain underused. The research uses comparative, formal legal, systemic, and statistical methods, and it compares the European Union, the Republic of Kazakhstan, and the Republic of Korea with the national framework. The conclusions propose a mandatory standstill period, improved effectiveness and monitoring of the review commission, clearer operator liability, and active promotion of mediation and arbitration.*

Keywords: *public procurement, procurement contract, dispute resolution, standstill period, review commission, mediation, arbitration, economic courts*

Introduction

Public procurement is one of the largest channels of public spending in Uzbekistan. Official analysis for 2024 showed that direct contracts reached 56.8 percent of all purchases, which equaled about UZS 80.3 trillion. The same analysis found that 6,241 direct contracts worth UZS 2.7 trillion breached procurement rules. It also found that 405 contracts worth UZS 122.8 billion involved conflicts of interest or affiliated parties (Kun.

uz, 2025). These figures demonstrate significant compliance risks in public procurement; however, they do not by themselves indicate the number of disputes arising between suppliers and procuring entities.

Two practical facts shape the national picture. First, the contract is concluded on the electronic platform in a fast and largely automatic way. The absence of an automatic standstill period leaves only a limited procedural interval between the award decision and contract formation. Second, courts remain an important forum for resolving procurement-related disputes, while alternative mechanisms such as mediation, arbitration, and administrative review are available but their practical use and effectiveness require further empirical assessment.

An inefficient and costly dispute resolution system may increase transaction costs for suppliers, delay procurement outcomes, and place additional pressure on judicial resources. It may also delay the delivery of goods and works required by the state and increase the number of disputes that could potentially be resolved through an effective pre-court mechanism. For these reasons, improving the dispute resolution mechanism remains an important task of civil and business law.

The purpose of this article is to identify the concrete weak points of the national dispute resolution mechanism for procurement contracts and to propose targeted solutions. The study is built around four problems that appear in daily practice.

The first problem is the automatic conclusion of the contract without a waiting period. The second problem concerns the effectiveness and enforceability of the existing review mechanism on the state procurement portal. The third problem is the involvement of electronic system operators in the review framework and the resulting concerns regarding institutional independence. The fourth problem is that court proceedings are slow and expensive, while mediation and arbitration remain underused. For each problem the article studies foreign practice and offers a solution that fits national civil law.

The role of remedies in procurement is a settled theme in scholarship. Arrowsmith treats effective remedies as the core condition of any procurement regime, because rules without remedies cannot be enforced (Arrowsmith, 2014). Treumer and Lichère show how a clear ineffectiveness remedy changed the European balance between the open market and legal certainty (Treumer & Lichère, 2011). Bovis explains that European remedies protect both the single supplier and the wider public interest (Bovis, 2016). Schebesta studies damages as the last layer of protection when a contract cannot be undone (Schebesta, 2016). At the level of general theory, Thai frames procurement as a system that must balance economy, integrity, and accountability (Thai, 2001).

The UNCITRAL Model Law places challenge proceedings and a standstill period at the centre of a fair system (UNCITRAL, 2011). The OECD links an effective review system to value for money and public trust (OECD, 2019). National scholarship has looked at alternative dispute resolution as a way to ease the courts. Ismailova analyses the introduction of mediation in Uzbekistan and points to gaps that still slow its use (Ismailova, 2020). Other national work has focused on the substantive rules of procurement and on the civil regulation of related contracts (Zaynobbiddinova, 2021). A focused study of the dispute resolution mechanism itself, built around the four practical problems above and read through national civil law, is still missing. This article fills that gap.

Methods

The research studies the national dispute resolution mechanism as a single system with four problem areas. The first area is the moment of contract conclusion and the absence of a waiting period. The second area is the set of dispute resolution tools available under national law. These are the economic court, the arbitration court,

mediation, the amicable settlement inside a court case, and the review commission on the state procurement portal. The third area is the institutional link between the commission and the electronic system operator. The fourth area is the cost and speed of the court route compared with mediation and arbitration. For each area, the research places the national rules next to the practice of the European Union, the Republic of Kazakhstan, and the Republic of Korea.

The research is guided by one question. Does the national mechanism give suppliers and customers a fast, fair, and enforceable way to resolve their disputes before and after the contract is signed? The answer is built by describing the national tools, comparing them with foreign models, and testing them against official statistics.

The study uses four methods. The comparative legal method compares the national mechanism with tested foreign models. The formal legal method, also called the dogmatic method, analyses the exact wording of the national rules and locates gaps. The systemic structural method treats the mechanism as a whole and studies how its parts interact, because a defect in one tool weakens the entire system. The statistical method reads official data on violations and links the legal analysis to real practice. The objects of research are the national legal acts, the foreign legal acts and directives, and the reported statistics.

Results

National law offers five main ways to resolve a dispute that arises from a procurement contract. These are the economic court, the arbitration court, mediation, the amicable settlement reached inside a court case, and the review commission on the state procurement portal. Economic courts remain an important forum for resolving procurement-related disputes, while the practical use and effectiveness of alternative mechanisms require further empirical assessment.

The review commission deserves close study, because it should act as the main pre-court filter. The Regulation on the review of complaints in the field of public procurement governs its work. The Regulation provides that a decision of the commission taken within its powers is binding on the parties. At the same time, the same Regulation gives any dissatisfied party the right to appeal to the court. The Commission has the power to suspend the procurement procedure after accepting a complaint for consideration. However, the current framework does not provide for an automatic standstill period between the award decision and the conclusion of the contract, regardless of whether a complaint has been filed.

The moment of contract conclusion is the second weak point. On the electronic platform the contract is formed in a fast and largely automatic way once the winner is set. Once the winner is determined, the contract is formed electronically on the basis of the procurement documents and the winning bid. However, the absence of an automatic standstill period leaves only a limited procedural interval between the award decision and the contract becoming binding. This can lead to penalties and to entry in the single register of unfair contractors, which blocks the supplier from procurement for two years.

The third weak point is institutional. The body that reviews complaints and the operator of the electronic system belong to the same institutional structure. This closeness weakens trust when a complaint concerns the platform or the procedure it runs. The civil liability of the operator for its own faults is also not clearly defined. The authorized body that shapes this structure has recently changed. By Presidential Decree PD-17 of 4 February 2026, the public procurement tasks, functions, and powers of the Ministry of Economy and Finance were transferred to the newly established Agency for Industrial Cooperation and Public Procurement. This makes the question of independence even more pressing, because the

new Agency now joins the promotion of local industry with the regulation of procurement and the review of complaints.

The fourth weak point is the cost and speed of the court route. A court case can take a long time. The state duty adds a real cost, which weighs most on smaller suppliers. National law already offers a strong incentive to settle. Under the Law on State Duty, if the parties reach a mediation agreement and the claim is left without consideration, the state duty paid on filing is returned to the claimant. Mediation can be used before the court and during the case in the first instance. Yet in procurement disputes these tools are still rarely used, and the court remains the default.

The table below summarizes the five national tools by their legal nature, their binding force, and their cost and speed. The table shows a clear imbalance. Economic courts provide fully enforceable judicial remedies but may involve comparatively greater procedural costs and longer proceedings. The review commission offers a more expedited administrative mechanism, although the practical effectiveness of its decisions requires separate assessment. Mediation and arbitration may provide faster and potentially lower-cost alternatives for appropriate post-award contractual disputes. However, the available evidence does not establish the extent to which these mechanisms are used in practice. Accordingly, the existing framework reflects different procedural advantages and limitations rather than a clear hierarchy of dispute resolution mechanisms.

Table

Dispute resolution tools for procurement contracts under national law

Tool	Legal nature	Binding force	Cost and speed
Economic court	Judicial	Fully binding and enforceable	Slow, higher cost (state duty)
Arbitration court	Private, based on agreement	Binding award, enforceable	Faster, cost set by agreement
Mediation	Voluntary, out of court	Binding once approved	Fast, state duty refunded
Amicable settlement in court	Court approved	Binding and enforceable	Depends on the stage
Portal review commission	Administrative review	Formally binding but appealable, weak enforcement	Fast, low cost

The results indicate two principal directions for reform. The first direction is to add a waiting period so that disputes are prevented or caught before the contract binds the parties. The second direction is to make the potentially faster and lower-cost mechanisms stronger so that fewer disputes need the court at all. The discussion below develops both directions across the four problems.

Discussion

The first proposed reform addresses the automatic conclusion problem. Foreign practice uses a standstill period. This is a short pause between the award decision and the binding of the contract. In the European Union the standstill is at least ten days between the award and the signing (Directive 2007/66/EC, 2007). During this pause an unsuccessful bidder can challenge the award before the contract exists. In the Republic of Korea, the review body can order the bidding procedure or the contract to be suspended, which has a similar effect. The UNCITRAL Model Law also builds a standstill into its challenge system (UNCITRAL, 2011).

The national standstill period should primarily serve as a procedural safeguard for unsuccessful bidders by providing them with an effective opportunity to challenge the award decision before the contract becomes binding. In the national context, such a period may also give the successful bidder an additional opportunity to verify the final contractual terms before contract formation. A short and clearly defined standstill period could therefore reduce the risk of unlawful contract awards and enhance the procedural fairness of the procurement process without causing excessive delay.

The second reform addresses the effectiveness of the existing review mechanism. The current review mechanism already allows the Commission to suspend the procurement procedure following the acceptance of a complaint. The remaining issue is the absence of an automatic standstill period that would temporarily prevent contract conclusion immediately after the award decision and provide interested suppliers with an effective opportunity to challenge that decision. In the European Union the review body can order interim measures, suspend the award, and set aside an unlawful decision (Directive 89/665/EEC, 1989). In the Republic of Korea, the conciliation committee can order the procedure or the contract to be suspended. These powers let the review body actually resolve the dispute rather than pass it on.

The Kazakh reform of 2024 offers a warning on how not to do this. Kazakhstan moved the first review of complaints to the procuring entity itself, which is fast but weak in independence, because the body that made the decision also reviews the complaint against it (Lexology, 2025). The national reform should therefore focus not on creating a suspension power that already exists, but on introducing an automatic standstill period and improving the transparency, enforceability, and monitoring of review decisions. These measures could strengthen the Commission's role as an effective pre-contractual review mechanism.

The third reform answers the institutional overlap. A review body cannot be fully trusted if it sits in the same structure as the operator whose platform is under complaint. The European model keeps the review body separate from the customer, whether the body is a special administrative body or a court (European Commission, 2017). The national commission should be separated in composition and interest from the electronic system operator. The law should also state clearly when the operator answers, in civil law, for its own faults in the procurement process. This matters even more after the transfer of powers to the new Agency, which now joins several roles under one roof.

The fourth reform answers the cost and speed of the court route. National law already contains a strong tool. Under the Law on State Duty, a mediation agreement that ends the case returns the state duty to the claimant. Mediation can run before the court and during the case, and the court must give time for it. Arbitration courts offer another fast route for the civil part of the dispute, that is the performance of the signed contract. Yet suppliers and customers rarely use these tools in procurement (Ismailova, 2020).

Three steps would change this. First, the standard procurement contract could include a clause that invites mediation before a court claim. Second, the procurement rules could show the parties the state duty refund at the right moment, so the incentive is visible. Third, a specialized mediation or arbitration track could be built around the electronic platform, so that a fast settlement is one step away. These steps respect party autonomy and civil law, and they move many disputes out of the slow and costly court route. One limit should be kept in mind. A pre-award challenge is a matter of public review and cannot be handed to a private arbitrator. Arbitration fits the civil dispute over the performance of the signed contract, not the review of the award.

The findings agree with the main line of scholarship. Arrowsmith and Bovis both argue that remedies are the true test of a procurement regime, and the national gaps confirm

this (Arrowsmith, 2014; Bovis, 2016). The findings also match the UNCITRAL design, which places a standstill and real challenge proceedings at the centre of a fair system (UNCITRAL, 2011). The study adds two national points that foreign work does not cover. The first is the possible secondary function of a standstill period in allowing the successful bidder to verify the final contractual terms before contract formation. The second is the civil law problem of a review commission that shares a structure with the operator. The author holds that foreign tools should be adapted to national civil law, not copied. In particular, the national reform should add power to the commission while keeping its independence, which contrasts with Kazakhstan's model.

Conclusion

The national dispute resolution mechanism for procurement contracts works, but four weak points reduce its effectiveness. The contract is concluded automatically without an automatic standstill period. The effectiveness and enforceability of the review mechanism require further improvement. The involvement of electronic system operators in the review framework raises concerns regarding institutional independence, and the operator's liability remains unclear. Court proceedings may be time-consuming and costly, while mediation and arbitration remain underused. On this basis, the author proposes four reforms.

First, introduce a mandatory standstill period between the award decision and the conclusion of the contract. This period should primarily give an unsuccessful bidder time to challenge the award before the contract becomes binding and may also give the winning supplier time to verify the final contractual terms.

Second, strengthen the effectiveness and enforceability of decisions of the Commission for Reviewing Complaints in Public Procurement and subject them to systematic monitoring.

Third, strengthen institutional safeguards concerning the involvement of electronic system operators in the review framework and define the civil liability of the operator for its own faults. This issue has become more significant following the transfer of procurement powers to the new Agency for Industrial Cooperation and Public Procurement.

Fourth, promote mediation and arbitration in procurement disputes. The availability of a state duty refund for mediation should be more clearly communicated to the parties, and a fast settlement track could be integrated into the electronic platform, while pre-award challenges should remain within the public review mechanism.

Taken together, these reforms could help prevent certain disputes, facilitate the resolution of others before litigation, and keep the civil nature of procurement contracts at the centre of reform. They could strengthen the protection of suppliers, reduce unnecessary court proceedings, and contribute to the more efficient use of public funds.

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