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ARTIFICIAL INTELLIGENCE IN LEGAL DRAFTING: A COMPARATIVE ANALYSIS OF UZBEKISTAN AND CHINA

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Abstract. *This article provides a comparative legal analysis of the role of artificial intelligence (AI) in drafting legal documents in Uzbekistan and China. It explores the evolution of AI from a supplementary tool to a central component of digital justice. The study reviews legislative initiatives in both countries, such as Uzbekistan’s ethical standards slated for 2026 and China’s implementation of the “smart courts” system. Special emphasis is placed on AI’s functional capabilities, including automated contract generation, the detection of corruption risks in legislative acts, and the examination of judicial precedents. The research highlights significant differences between the two nations’ approaches, particularly in areas such as algorithmic liability and personal data protection. While China emphasizes the comprehensive integration of AI into public governance, Uzbekistan follows the “human-in-the-loop” principle, restricting the legal authority of algorithms. The paper concludes with a call to harmonize standards for algorithmic transparency in order to mitigate risks associated with AI “hallucinations.” The findings from this study aim to provide guidance for improving national legislation related to the digital transformation of the legal sector.*

Keywords: *artificial intelligence, legal drafting, legal tech, AI ethics, natural language processing, digitalization of justice, legislation of Uzbekistan, Chinese law, algorithmic accountability*

Introduction

The rapid advancement of Large Language Models (LLMs) and generative technologies has profoundly reshaped the legal profession, moving it from basic word processing to sophisticated algorithmic synthesis. In the global pursuit of digital sovereignty, the cases of Uzbekistan and China illustrate two distinctive yet converging approaches to incorporating Artificial Intelligence (AI) into the legal drafting process. This shift operates within foundational constitutional frameworks regarding structural legality and systemic rights (Alexy, 2002). This article delves into how these countries navigate the delicate balance between operational efficiency and the safeguarding of judicial integrity, striking directly at core modern conceptualizations of the rule of law (Bingham, 2010).

China, recognized as a global leader in "Smart Justice," has embedded AI into its legal system with remarkable depth. From the Supreme People's Court's directives on AI implementation to the extensive use of automated contract analysis tools, China's approach prioritizes standardized workflows and minimizes human error across its expansive jurisdiction (Supreme People's Court of China, 2022). On the other hand, Uzbekistan is in the midst of a dynamic digital transformation. Guided by the "Digital Uzbekistan — 2030" initiative (Government of Uzbekistan, 2020) and reinforced by legislative measures introduced between 2021 and 2025 (Presidential Decree No. PD-4996, 2021; Law on Artificial Intelligence, 2025), the country is developing a local ecosystem for AI-supported lawmaking and public services. These efforts emphasize the "human-in-the-loop" principle to ensure that local legal intricacies are respected, preserving the foundational legislative structures crucial to state legal continuity (Dicey, 1982). AI's role in legal drafting, which was once solely reliant on human expertise, now ranges from assisting in contract creation to identifying legislative gaps and ensuring adherence to evolving regulatory standards.

Yet, this shift brings its own set of challenges, including the risk of algorithmic bias, the enigmatic nature of AI decision-making, and occurrences of inaccurate or fabricated references in legal work. This study compares the regulatory landscapes in Tashkent and Beijing, analyzing how AI accelerates documentation processes while scrutinizing mechanisms designed to uphold the principles of justice. It raises critical questions about whether AI serves merely as a clerical assistant or if it is a transformative force capable of redefining the essence of legal authorship in the modern era.

According to M.Sadikov, AI-based drafting should not be viewed as an isolated innovation, but rather as part of the wider digital transformation of legal practice. AI complements other technologies by automating repetitive tasks, enabling smart contracts, and supporting digital dispute resolution mechanisms. Sadikov also emphasizes that successfully implementing legal tech requires institutional reform, legal education, and adapting professional standards. Without these supporting structures, AI tools may remain underutilized or misapplied (Sadikov, 2020).

Ethical and Governance Challenges: Accountability and liability. One of the central challenges is establishing who is responsible for AI-generated legal content. For example, if an AI system produces a flawed clause, liability may fall on the lawyer, the firm, or the software provider. Transparency and explainability: Many AI systems operate as "black boxes", making it difficult to explain how specific drafting decisions are made. This lack of transparency is problematic in legal contexts where justification and reasoning are essential. Dr. Ammar Younas' work on AI ethics and responsible AI governance is particularly relevant to the drafting of legal documents, offering frameworks to unpack these complex ethical boundaries (Younas, 2023).

Methods

This study employs a multi-dimensional research framework to explore the integration of Artificial Intelligence (AI) into legal drafting processes. The research focuses on a comparative analysis of two distinct systems: the established, state-driven approach of the People’s Republic of China and the rapidly evolving digital legal framework of the Republic of Uzbekistan. To ensure thoroughness and analytical precision, the following methodological approaches have been adopted:

Doctrinal Legal Analysis

A systematic exploration of primary legal sources forms the foundation of this research. For China, key documents include the “Interim Measures for the Management of Generative AI Services” (Cyberspace Administration of China, 2023), the Supreme People’s Court guidelines on AI use in judicial fields (Supreme People’s Court of China, 2022), and emerging regulations on algorithmic governance. In the context of Uzbekistan, the study examines the national strategy “Digital Uzbekistan — 2030” (Government of Uzbekistan, 2020), “Presidential Decree No. PD-4996” (2021), and the “2025 Law On Relations Arising from the Use of Artificial Intelligence” (Law on Artificial Intelligence, 2025). This doctrinal analysis helps pinpoint and interpret normative standards regarding algorithmic transparency and the integrity of legal documentation.

Comparative Legal Method

A comparative lens is applied at both macro and micro levels. At the macro level, the research contrasts China’s centralized approach to AI governance, exemplified by its “Smart Courts” initiative, with Uzbekistan’s focus on economic modernization and public legal services, notably through platforms like LexAI. On the micro level, it delves into procedural nuances, such as implementing the “human-in-the-loop” concept and resolving liability issues for errors in AI-generated legal documentation.

Content and Functional Analysis

Functional analysis is used to evaluate the practical applications of AI in legal drafting. This includes a gap analysis aimed at identifying discrepancies between AI-generated outputs and existing legal frameworks for civil and administrative law. The study also conducts technical benchmarking by reviewing official reports and white papers, assessing tools such as China’s WeChat-based judicial mini-programs and Uzbekistan’s Muxlisa AI platform, which produce standardized legal documents like contracts and petitions.

Qualitative Policy Analysis

To understand the motivations behind specific legislative and regulatory developments, qualitative policy analysis scrutinizes policy discourse. This step examines governmental statements, ethical principles—such as Uzbekistan’s “2026 Ethical Rules for AI” (Ministry of Justice of Uzbekistan, 2026)—and academic literature from prominent scholars in legal technology. This approach sheds light on how traditional legal drafting practices are transitioning toward new paradigms rooted in AI-driven “prompt engineering.”

Scope and Limitations

This study focuses specifically on the application of AI in drafting contracts, normative legal acts (NPAs), and judicial documents. Broader applications of AI, such as its use in predictive policing or other non-drafting legal domains, are beyond its scope. The empirical and legal data analyzed are drawn from publicly available databases such as Lex.uz and Chinalawinfo, as well as academic repositories, encompassing developments through the second quarter of 2026.

Results

This study’s results reveal that the integration of Artificial Intelligence (AI) into the legal drafting frameworks of Uzbekistan and the People’s Republic of China marks a significant shift from a purely technical application toward a normatively grounded, ethically conscientious regulatory approach. Drawing on the academic insights provided by Maksudboy Sadikov and Ammar Younas, the study’s findings are categorized under three major analytical dimensions:

Evolution of Legal Technology and Normative Alignments

The research highlights a transformation of Legal Tech from a supplementary tool into an intrinsic element of modern legal systems. Sadikov's (2020) scholarship illustrates how, in Uzbekistan, AI has been integrated as a quasi-institutional mechanism that facilitates the monitoring and enhancement of legislative quality. Empirical data suggests that the implementation of the "Ethical Rules for AI" (Ministry of Justice of Uzbekistan, 2026) has effectively blurred the lines between non-binding soft law measures and enforceable regulatory requirements. In practice, AI-based tools are actively employed by governmental bodies, particularly within Uzbekistan's Ministry of Justice, to identify inefficiencies in administration and root out corruption-prone clauses during the drafting stage, well before legislative review.

Contrastingly, Younas (2023) emphasizes China's progression beyond using AI for drafting assistance to employing it for adjudicative and interpretative tasks. In China, AI systems have been developed to vet draft legal documents against a vast array of national and subnational laws while aligning them with established judicial precedents (Supreme People's Court of China, 2022). This development has fostered a distinctive model of "algorithmic consistency," marked by extensive systematization, coherence, and standardization in legal outputs.

Algorithmic Accountability and Liability Frameworks

A pronounced divergence is observed in how liability for AI-related inaccuracies is regulated in these jurisdictions. Sadikov's exploration of Uzbek legal structures reveals the introduction of administrative liability provisions specifically targeting the misuse of AI, particularly concerning the processing of personal data under emerging enforcement mechanisms. This liability scheme places primary responsibility on the legal professionals employing AI technologies, thereby reinforcing the principle that any errors arising in AI-assisted drafting processes are ultimately attributed to human oversight.

By contrast, Younas identifies a more diffused model of accountability in China, where liability is shared between AI developers and end-users as mandated by central oversight authorities (Cyberspace Administration of China, 2023). Here, the "human-in-the-loop" principle has been institutionalized through mechanisms such as mandatory digital watermarking on AI-generated legal documents. This approach prioritizes process traceability and transparency while avoiding undue concentration of fault on individual practitioners.

Cross-Cultural Adaptation and Ethical Compliance

The comparative analysis underscores a measured approach in both Uzbekistan and China concerning the adoption of Western-style AI regulatory frameworks such as the European Union's regulatory framework (EU AI Act, 2024). Instead of direct transplantation, both countries pursue context-sensitive adaptations that align with their respective legal traditions and economic aspirations.

Younas (2023) delineates how China's regulatory design synthesizes Confucian philosophies with socialist legal ideologies, placing emphasis on collective welfare, social harmony, and comprehensive state supervision. Concurrently, Sadikov (2020) identifies Uzbekistan's strategy as centered around economic modernization, technological self-reliance, and fostering an investor-friendly legal ecosystem. In this context, AI-driven legal drafting tools are tailored to enhance institutional efficiency, optimize contractual formalities, and diminish business transaction costs, all while maintaining strict ethical safeguards to ensure responsible technological deployment (Ministry of Justice of Uzbekistan, 2026). In sum, these findings provide valuable insights into the contextual integration of AI innovations into legal systems and underscore the necessity of balancing technology with ethics in regulatory governance frameworks.

Discussion

The findings of this study underscore that integrating Artificial Intelligence (AI) into legal drafting processes in Uzbekistan and the People's Republic of China represents more than just a technological upgrade—it marks a fundamental restructuring of how legal norms are formulated, reviewed, and organized. Both nations exhibit growing incorporation of AI into their legal systems, although their methods and strategic priorities show notable differences.

A key point of agreement between these jurisdictions lies in recognizing AI's ability to enhance the efficiency and consistency of legal drafting. AI tools in both systems streamline the process of creating laws, contracts, and judicial documents by automating labor-intensive tasks such as formatting, cross-referencing, and compliance verification. This automation not only reduces drafting time but also improves the technical precision and overall quality of legislative documents, ensuring compatibility with existing legal standards.

China's advanced implementation of AI in "Smart Courts" showcases the capability of algorithms to manage vast, intricate legal systems (Supreme People's Court of China, 2022). Meanwhile, Uzbekistan's focus is on embedding AI into ministerial operations to achieve administrative efficiency and enhance public service delivery in line with national operational standards (Government of Uzbekistan, 2020; Law on Artificial Intelligence, 2025). That said, the analysis reveals several significant challenges, particularly in terms of regulatory and institutional frameworks.

An especially pivotal concern is accountability for AI-generated errors. Uzbekistan adheres to a more cautious approach, maintaining that legal professionals are entirely responsible for the outputs produced using AI. While this approach bolsters professional accountability and legal certainty, it may also discourage full reliance on AI tools among practitioners. Conversely, China has adopted a shared liability model that allocates responsibility between developers and users (Cyberspace Administration of China, 2023), supported by advanced technologies like traceability systems and digital watermarking. This arrangement promotes transparency but adds complexity when determining accountability in scenarios involving intricate or multi-layered AI applications.

Another key issue is the role of ethical governance in managing AI deployment. Both countries are increasingly adopting ethical standards as a complement to formal law in response to rapid technological innovation (Ministry of Justice of Uzbekistan, 2026). Uzbekistan employs ethical guidelines as transitional norms that bridge innovation with regulation, frequently evolving toward enforceable standards. In China, ethical considerations are more closely aligned with state policy goals, prioritizing social stability, security, and collective benefits. These contrasting approaches highlight deeper variations in legal culture: while Uzbekistan's emphasis lies on fostering market growth and facilitating international cooperation, China prioritizes centralized control and systemic uniformity.

The study also examines the adaptability of external regulatory models—such as the European Union's framework (EU AI Act, 2024)—to these contexts. It finds that neither Uzbekistan nor China directly adopts such foreign frameworks in their entirety. Instead, they selectively tailor external principles to fit their unique domestic legal traditions and policy objectives. This reinforces the idea that governing AI in legal drafting is highly context-specific and unlikely to be universally standardized without accounting for cultural, institutional, and economic differences. One further implication of the increasing use of AI in legal drafting is a potential paradigm shift—from an exclusively human-driven intellectual exercise to a hybrid process guided by “prompt engineering” and machine-assisted reasoning.

While AI undoubtedly enhances productivity, there is a risk of excessive standardization and diminished doctrinal innovation if such systems are not used judiciously. In conclusion, the experiences of Uzbekistan and China illustrate the significant advantages AI offers in improving efficiency and consistency in legal drafting. However, these benefits come with complex challenges relating to accountability, ethics, and preserving legal integrity. The sustainability of these emergent practices will ultimately hinge on finding an effective balance between fostering innovation and upholding regulatory control.

Conclusion

This study highlights the transformative impact of integrating Artificial Intelligence (AI) into legal drafting processes, signaling a significant evolution in modern legal systems, particularly in Uzbekistan and the People’s Republic of China. Once regarded solely as a technical tool, AI is now becoming an integral part of the normative and institutional mechanisms responsible for drafting, verifying, and implementing legal rules. As a result, legal drafting is no longer an exclusively human endeavor but has evolved into a collaborative process where human expertise is complemented by algorithmic support.

A comparative analysis reveals that both countries recognize the strategic potential of AI in improving the efficiency, accessibility, and uniformity of legal drafting. In Uzbekistan, these advancements are driven by goals such as economic modernization, administrative streamlining, and creating a legal environment more conducive to investment (Government of Uzbekistan, 2020). AI tools are actively utilized to optimize legislative workflows, minimize bureaucratic obstructions, and raise the quality of legal acts. Meanwhile, China has adopted a more advanced and systematic approach, embedding AI deeply into its judicial and legislative infrastructures (Supreme People’s Court of China, 2022). This ensures broader cohesion among legal norms while leveraging data-driven mechanisms to enhance judicial processes.

However, the study also highlights the accompanying regulatory and ethical challenges posed by these technological advancements. A notable difference between the two countries lies in their approaches to liability and accountability. Uzbekistan adheres to traditional legal principles, holding human legal professionals solely accountable for AI-assisted outputs in order to uphold established norms of responsibility and ethics (Law on Artificial Intelligence, 2025; Ministry of Justice of Uzbekistan, 2026). By contrast, China employs a distributed accountability model that combines human oversight with technical measures like traceability systems (Cyberspace Administration of China, 2023). These disparities reflect deeper differences in their respective legal traditions, institutional structures, and regulatory philosophies.

Another key insight is that both nations are developing adaptable models for AI governance that align with their domestic priorities, rather than directly importing external regulatory frameworks (EU AI Act, 2024). While international benchmarks offer valuable guidance, wholesale adoption of such standards is neither feasible nor optimal without tailored modifications. Uzbekistan and China instead selectively apply global best practices within the context of local objectives focused on economic growth, social stability, and technological sovereignty.

This research also underscores that the rising reliance on AI is fundamentally altering the nature of legal drafting itself. The emergence of “prompt engineering” as a core professional skill exemplifies how legal practitioners must now integrate traditional doctrinal expertise with a working knowledge of algorithmic tools. While these advancements hold promise for improving productivity and standardization, they also raise important concerns about excessive dependence on automation, potential algorithmic biases, and the potential decline of critical legal reasoning skills.

Ultimately, the experiences of Uzbekistan and China demonstrate that the effective integration of AI into legal drafting hinges on striking a careful balance between innovation and regulation. While AI has immense potential to enhance the quality and efficiency of legal systems, its adoption must be guided by strong frameworks emphasizing accountability, transparency, and ethical integrity. Future research should explore empirical assessments of AI-enabled drafting outcomes, cross-border standardization efforts, and the broader implications of AI for legal theory and practice.

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THE RIGHT TO ACCESS ENVIRONMENTAL INFORMATION: PROBLEMS OF IMPLEMENTING THE AARHUS CONVENTION IN UZBEKISTAN

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Abstract. *This article focuses on the legal regulation of access to environmental information in Uzbekistan after the country's accession to the Aarhus Convention. The research analyzes how the Convention's key requirements on environmental information, public participation, and access to justice can be reflected in national legislation and administrative practice. The topic is relevant because Uzbekistan now has an international obligation to improve the openness of environmental data, ensure meaningful public involvement in environmental decision-making, and provide effective remedies when these rights are violated. The purpose of the study is to identify the main gaps in the current legal framework and to propose practical directions for implementing Aarhus standards in Uzbekistan. The article is based on the analysis of international legal norms, national legislation, and recent scholarly approaches to environmental democracy. As a result, the article reveals that environmental information should be developed as an independent legal category, public authorities should disclose such information proactively, and judicial and administrative protection mechanisms should be strengthened. The results may be used in improving environmental legislation, open data policy, and public participation procedures. The article concludes that effective implementation of the Aarhus Convention requires transparent information databases, meaningful public hearings, and accessible justice mechanisms.*

Keywords: *environmental law, environmental governance, transparency, environmental information, public participation, access to justice, Aarhus Convention*

Introduction

Today, the right of access to environmental information is considered one of the important legal guarantees for ensuring a person's right to live in a healthy and safe environment. The openness of information about the state of the environment, the use of natural resources, environmental risks, sources of pollution, and environmental decisions adopted by public authorities strengthens environmental responsibility in society. In this regard, the Aarhus Convention establishes three main areas as international legal standards: access to environmental information, public participation in environmental decision-making, and access to justice in environmental matters (United Nations Economic Commission for Europe, 1998).

In the Republic of Uzbekistan, the development of the environmental governance system on the basis of the principles of transparency, public participation, and environmental justice is becoming increasingly relevant. Uzbekistan's accession to the Aarhus Convention has made the issue of environmental information openness more urgent for national legislation. It now requires not only formal recognition of the Convention's standards, but also their practical reflection in access to information procedures, public hearings and mechanisms of legal protection. According to official information, on March 28, 2025, Uzbekistan was recognized as the 48th Party to the Aarhus Convention, which expanded the country's obligations in the field of environmental transparency and public participation (Ministry of Ecology of the Republic of Uzbekistan, 2025). In this context, the study of international standards on access to environmental information is important because these standards directly affect the quality of environmental governance, the accountability of public authorities and the ability of citizens to participate in decision-making. Therefore, this article aims to analyze the main requirements of the Aarhus Convention and determine how they can be implemented more effectively in the legal system of Uzbekistan.

To achieve this aim, the content of the Aarhus Convention in the field of access to environmental information is first examined and then compared with the existing legal mechanisms in the legislation of Uzbekistan.

The main problem to be addressed in the article is determining what legal changes Uzbekistan's accession to the Aarhus Convention requires in national environmental legislation and which mechanisms should be strengthened in order to ensure the practical realization of the right of access to environmental information. In particular, the obligation of public authorities to provide environmental information, the clarity of grounds for refusing access to information, public hearings, citizens' participation in the environmental expertise process, and guarantees of judicial protection are of particular importance. In this study, the right of access to environmental information is considered not merely as an opportunity to obtain information, but as a democratic legal institution that ensures the participation of civil society in environmental governance. Therefore, the main scientific and practical task of the article is to determine the degree of conformity between the requirements of the Aarhus Convention and the existing norms of Uzbek legislation.

In foreign scholarly literature on the Aarhus Convention, this international instrument is regarded as one of the main tools of environmental democracy (Sharman, 2025). In particular, V. Koester analyzes the Aarhus Convention as an international treaty that unites the rights of access to environmental information, public participation, and access to justice within a single system. According to the author's approach, the significance of the Convention lies in the fact that it interprets environmental issues not only as a sphere of public administration but also as a legal institution connected with human rights and democratic participation (Koester, 2007). Existing scholarly approaches analyze the three pillars of the Aarhus Convention in an interconnected manner. Access to environmental information is closely linked to the other two pillars of the Aarhus Convention. Without reliable and timely information, public participation in environmental decision-making cannot be effective. At the same time, participation gives society an opportunity to question, assess and influence decisions that may affect the environment. Access to justice plays a protective role in this system, because citizens and public associations need an effective legal remedy when information is unlawfully refused or when participation rights are ignored. For this reason, the article considers access to environmental information together with public participation and environmental justice, rather than as an isolated legal issue.

The reviewed literature also indicates that accession to the Aarhus Convention is only the first stage of implementation. For the Convention to work in practice, national legislation must provide clear duties for public authorities to disclose environmental information, simple procedures for information requests, meaningful forms of public participation and effective judicial protection. In the case of Uzbekistan, the main challenge is to turn the Convention's general principles into concrete rules and procedures that can be applied in administrative practice and court proceedings.

Methods

This study was aimed at examining the international legal standards of the right of access to environmental information and the process of their implementation into the legal system of Uzbekistan. In the course of the research, first of all, the content of the Aarhus Convention was analyzed. The Convention establishes the rights of access to environmental information, public participation in environmental decision-making, and access to justice in environmental matters as a unified international legal system. Therefore, this Convention makes it possible to assess the right of access to environmental information not merely as an opportunity to obtain data, but as an important democratic institution ensuring citizens' participation in environmental governance (United Nations Economic Commission for Europe, 1998).

At the next stage of the study, the legal grounds related to the accession of the Republic of Uzbekistan to the Aarhus Convention were examined. By the Law of the Republic of Uzbekistan No. LRU-1045 dated March 11, 2025, Uzbekistan acceded to the Aarhus Convention. This document creates the legal basis for Uzbekistan to fulfill its international obligations concerning the openness of environmental information, public participation, and environmental justice (Law of the Republic of Uzbekistan No. LRU-1045, 2025). In addition, the fact that Uzbekistan was recognized as the 48th Party to the Aarhus Convention on March 28, 2025, further increases the practical significance of international legal obligations in this area (Ministry of Ecology of the Republic of Uzbekistan, 2025).

In studying national legislation, the general legal guarantees related to access to information were also analyzed. In particular, the Law "On Guarantees and Freedom of Access to Information" regulates relations connected with the exercise of everyone's right to freely seek, receive, research, transmit, and disseminate information. This law serves as the general legal foundation for access to information in Uzbekistan and may also be applied to environmental information requests (Law of the Republic of Uzbekistan No. 400-I, 1997). On this basis, the article compares the requirements of the Aarhus Convention with the existing rules of Uzbek legislation and identifies the areas where national regulation still needs to be clarified.

The research mainly relies on comparative legal analysis. This approach was used to compare the provisions of the Aarhus Convention with Uzbekistan's legislation on access to information and environmental governance. The comparison focused on several key issues: the procedure for obtaining environmental information, the duties of public authorities, the legal grounds for refusing access to information, the role of public participation and the availability of judicial protection. Such an approach helps to show whether national legislation provides only general guarantees of access to information or whether it also contains special mechanisms required for environmental matters.

Systemic analysis was also used in the article. The right of access to environmental information was examined not as a separate rule, but as part of a broader system that includes environmental governance, human rights, public oversight and judicial protection. In this system, access to information allows citizens to understand environmental risks and planned decisions. Public participation gives them an opportunity to express their position before decisions are made. Access to justice, in turn, provides a remedy when information is refused or when the public is excluded from decision-making.

The formal legal method was applied to analyze the content of the relevant legal acts. In particular, the article examined the Aarhus Convention, the Law of the Republic of Uzbekistan No. LRU-1045, and the Law “On Guarantees and Freedom of Access to Information.” This made it possible to determine how the right of access to environmental information is reflected in legal texts, what obligations are imposed on public authorities and what legal opportunities are available to citizens.

The object of the research is the system of international and national legal relations connected with the regulation of access to environmental information.

The subject of the research includes the standards of the Aarhus Convention, the legal grounds related to Uzbekistan’s accession to this Convention, and the mechanisms for ensuring the openness of environmental information. The choice of this object and subject is directly connected with the main purpose of the article, as it makes it possible to identify the legal directions for implementing international environmental information standards into the legal system of Uzbekistan.

Results

The results of the study show that the right of access to environmental information in the legal system of Uzbekistan should now be considered not only as a general guarantee of access to information, but also as a separate legal mechanism ensuring transparency of environmental governance and public participation. From the perspective of the Aarhus Convention standards, environmental information is not limited to information provided by public authorities upon request. It also includes the active disclosure of information on the state of the environment, environmental risks, the use of natural resources, sources of pollution and draft environmental decisions. According to Whittaker, the right of access to environmental information has a broader meaning than one-way information exchange between the state and the public, as it forms the legal basis necessary for citizens’ participation in environmental governance (Whittaker, 2023).

Although the legislation of Uzbekistan contains initial legal foundations for the openness of environmental information, the requirements of the Aarhus Convention indicate the need for further clarification of this area. In particular, the concept of environmental information, the range of responsible bodies providing environmental information, grounds for refusing access to information, public disclosure of environmental monitoring results, public discussion procedures and access to justice in environmental disputes should be regulated in an interconnected manner. Osae and coauthors examined national reports of 33 countries for 2014, 2017, and 2021 and found that the most common problems in implementing the Aarhus Convention are related to access to information, provision of information, public communication and trust (Osae et al., 2024).

In the context of Uzbekistan, this approach is important because the openness of environmental information determines the real effectiveness of public participation and access to legal protection in environmental matters. If citizens do not receive timely and understandable information about environmental risks or draft environmental decisions, their opportunity to participate in decision-making becomes limited. As Lee notes, even when public participation is legally recognized, its effectiveness depends on the quality of information, openness of evidence, inclusiveness of participants and the real possibility of influencing the final decision (Lee, 2023).

Table

Results on the openness of environmental information in the legislation of Uzbekistan

Analytical indicator	Current situation	Assessment from the perspective of the Aarhus Convention	Scientific and practical conclusion
Concept of environmental information	It is mainly applied within the framework of the general right of access to information	Environmental information is considered a separate legal category	The legal definition of environmental information should be clearly strengthened in legislation
Active disclosure of information	Some information is provided through official portals	Public authorities should regularly and actively disclose environmental information	Open environmental registers and digital databases should be expanded
Public participation	Certain forms of participation exist in some environmental procedures	Participation should be ensured before decision making and in a meaningful form	The mechanism through which public opinion influences decisions should be clearly defined
Submission of information by citizens	In practice, it is mainly expressed through appeals or complaints	The public may act not only as a recipient of information but also as a source of information	A procedure for reviewing environmental information submitted by citizens and non governmental organizations should be developed
Protection through courts	General administrative and judicial procedures are available	Effective protection should be guaranteed when information is not provided or the right to participate is violated	Fast and affordable protection mechanisms in disputes related to environmental information should be strengthened

The table shows that general foundations for ensuring the right of access to environmental information have been formed in the legislation of Uzbekistan. However, in accordance with the requirements of the Aarhus Convention, this right should be developed in a more precise, active and public-oriented manner. In particular, it is necessary to strengthen the digital openness of environmental information, narrowly interpret the grounds for refusal, promptly inform the population about environmental risks and ensure that public opinion is taken into account in the decision-making process.

The first scientific result obtained from the study is that the right of access to environmental information should be developed in the legislation of Uzbekistan as an independent institution of environmental law. The content of this right should not be limited to submitting a request and receiving a response. It should also include the openness of information on environmental monitoring results, state environmental control, environmental expertise, industrial waste, water and air pollution, biodiversity and risks affecting public health. In Barritt's research, the Aarhus Convention is interpreted not only as a set of procedural rights but also as an international legal instrument serving the right of present and future generations to live in a healthy environment (Barritt, 2024).

The second result is that the openness of environmental information is connected not only with the transparency of public authorities but also with active public participation. In modern environmental governance, citizens should be considered not only as recipients of information but also as sources of information about environmental problems. Whittaker argues that citizens should not be viewed only as recipients of environmental information, but also as possible contributors to it. In this sense, information submitted by citizens may help reveal gaps in official environmental data, support better decision-making, and increase public trust in environmental governance (Whittaker, 2023).

The third result relates to the practical role of public participation in environmental decision-making. When environmental information is not open, public hearings and discussions often become formal. Therefore, draft environmental decisions, expert conclusions, monitoring results and risk assessment data should be published in advance. Lee’s analysis emphasizes that the weakening of public participation mechanisms may lead to a decline in trust in environmental governance and a decrease in the legitimacy of decisions (Lee, 2023).

The fourth result shows that strong judicial and administrative complaint mechanisms are necessary for the effective functioning of environmental information rights. If environmental information is not provided, if the grounds for refusal are applied incorrectly, or if the public is excluded from the decision-making process, citizens and public associations must have an effective remedy. This aspect is connected with the third pillar of the Aarhus Convention, namely access to justice. Therefore, as a practical result, it is recommended to strengthen the principles of speed, affordability, and openness in resolving disputes related to environmental information in Uzbekistan.

The reliability of these results was justified through comparative legal and systematic analysis. The comparative approach made it possible to compare the standards of the Aarhus Convention with the existing norms of Uzbek legislation. The systematic analysis helped to assess the right of access to environmental information together with public participation, the right to a healthy environment and environmental justice. The results show that the implementation of the Aarhus Convention into the legal system of Uzbekistan does not end with accession to an international treaty. It also requires the formation of clear institutions, digital platforms, mandatory disclosure procedures and effective protection mechanisms in the field of environmental information openness.

Discussion

The implementation of the Aarhus Convention into the legal system of Uzbekistan does not end only with accession to an international treaty. The main issue is to transform the three pillars established in this convention, namely access to environmental information, public participation in environmental decision-making and access to justice in environmental matters, into a real functioning mechanism within national legislation and administrative practice. In Whittaker’s study, the Aarhus Convention is analyzed as an important international legal criterion shaping the content of the right of access to environmental information, and it is shown that this right is not limited only to requesting information (Whittaker, 2021).

In the author’s opinion, Uzbekistan should first of all strengthen the openness of environmental information databases. If the public does not receive accurate and timely information about the environmental situation, sources of pollution, waste, water and air quality, environmental expert examination conclusions and the impact of large projects on the environment, its participation in the decision-making process becomes formal. In the study conducted by Osae and coauthors, national reports of 33 states for 2014, 2017, and 2021 were analyzed, and it was shown that practical problems related to access to information and public participation still remain in the implementation of the Aarhus Convention (Osae et al., 2024).

From this point of view, it is not sufficient for public authorities to provide environmental information only upon request. The approach that should be supported is that environmental information must be actively published by public authorities, regularly updated and presented in a form understandable to ordinary citizens. The approach that should be rejected is treating environmental information only as departmental information and keeping it away from the wider public. Such an approach does not correspond to the essence of the Aarhus Convention, because the convention defines openness and public participation as central principles of environmental governance.

A similar problem exists in relation to public hearings. Hearings should not be held only to fulfill a formal procedure, but to ensure that citizens' opinions influence the content of decisions. Lee emphasizes that the effectiveness of public participation is determined by the quality of information, openness of evidence, inclusiveness of participants and the real influence of public opinion on the decision (Lee, 2023). Therefore, in the practice of Uzbekistan, draft environmental decisions should be announced in advance, discussion periods should be sufficient, and public authorities should provide reasoned responses to the proposals submitted.

The first problem identified during the study is that the concept of environmental information has not been sufficiently clarified in practical terms. Environmental information differs from ordinary administrative information. It is related to human health, the state of natural resources, environmental risks, the level of pollution and the interests of future generations. According to Barritt, the procedural rights in the Aarhus Convention are closely connected with the right to a healthy environment, and the importance of the rights of access to information, participation and access to justice is strengthened precisely through this purpose (Barritt, 2024).

The second problem is related to the openness and updating of information databases. If environmental monitoring data, emissions of harmful substances into the atmosphere, water quality, waste locations, environmental expert examination results and information about hazardous facilities are not collected in a single, open and easily searchable digital system, citizens' right of access to information may be limited in practice. In such a situation, even if the right exists, the mechanism for using it becomes complicated.

The third problem is connected with the real influence of public hearings and discussions. Dokubo and coauthors show that public participation plays an important role in the development of climate and environmental policy, but organizing it effectively in practice is a complex process (Dokubo et al., 2024). Therefore, it is not enough to limit the process to holding a meeting or publishing an announcement. It should be openly justified how citizens' opinions were taken into account during the discussion process, which proposals were accepted and which were rejected.

The fourth problem is the practical effectiveness of guarantees of access to court. The third pillar of the Aarhus Convention provides for access to justice in environmental matters. As Eliantonio and Richelle note, the right of access to court in environmental matters is one of the important pillars of the Aarhus Convention, allowing the public to challenge the actions or inaction of the state and other actors in cases of violation of environmental legislation (Eliantonio & Richelle, 2024). In the context of Uzbekistan, this issue becomes even more relevant when environmental information is refused, public participation is restricted or environmental decisions are adopted without sufficient openness.

Comparative legal analysis allowed the study to assess the relationship between the Aarhus Convention standards and the existing legal framework of Uzbekistan. Its main value lies in showing the degree to which national legislation corresponds to international obligations and in identifying the areas where additional regulation is needed. However, its limitation is that it cannot fully show the quality of practical implementation and the real experience of citizens. Therefore, comparative legal analysis should be supplemented by systematic and practical approaches.

The systematic analysis method made it possible to study the right of access to environmental information in connection with public participation and access to justice. This approach corresponds to Barritt's views, because she argues that the procedural rights in the Aarhus Convention serve the realization of the right to a healthy environment (Barritt, 2024). Thus, the openness of environmental information is not a separate technical issue, but an institution that ensures human rights, environmental safety and the quality of public administration.

The formal legal method was useful in analyzing the content of normative legal acts. Through this method, the existence of norms related to environmental information, public participation and judicial protection is identified. However, this method is also insufficient, because the existence of a norm does not mean that it works effectively in practice. Lee's research also shows that even if public participation is legally recognized, its quality and real influence on decision-making should be assessed separately (Lee, 2023).

The results of this study are consistent with the conclusions of Osae and coauthors. Their research studied the experience of different states in implementing the Aarhus Convention and noted that although there are positive developments in access to information and public participation, practical problems still remain (Osae et al., 2024). The same conclusion can be drawn in the case of Uzbekistan. Legal foundations are being formed, but the openness of environmental information databases, the real influence of public discussions and guarantees of access to court in environmental disputes should be further strengthened.

The results of the study can also be compared with the approach of Dokubo and co authors. They consider public participation not only as a legal procedure, but also as a process related to social trust, quality of communication and equal opportunities for participants (Dokubo et al., 2024). This conclusion is also important for Uzbekistan, because citizens' participation in environmental decision-making should not be limited only to the right to submit proposals, but should also influence the process of forming and evaluating draft decisions.

In general, the discussion results show that three areas should be prioritized for the effective implementation of the Aarhus Convention in Uzbekistan. First, environmental information databases should be open, regularly updated and understandable for citizens. Second, public hearings should influence the final decision, and public authorities should give reasoned explanations on the proposals submitted by citizens. Third, when environmental information is refused or public participation is restricted, judicial and administrative protection mechanisms should be fast, affordable and effective.

Conclusion

The results of the study show that the right of access to environmental information is an important component of modern environmental law and serves to ensure citizens' right to live in a healthy environment. This right is not limited only to the possibility of obtaining information from public authorities. It is directly connected with the transparency of environmental governance, public participation and guarantees of access to environmental justice. Therefore, in the process of implementing the Aarhus Convention into the legal system of Uzbekistan, it is necessary to develop the right of access to environmental information as an independent and effectively functioning legal institution.

Uzbekistan's accession to the Aarhus Convention creates an important legal basis for improving the openness of environmental information, public hearings and judicial protection mechanisms in accordance with international standards. The study revealed that although national legislation contains general guarantees of the right of access to information, there is still a need to regulate the specific features of environmental information separately. This is because environmental information is a special type of information related to human health, the state of natural resources, environmental safety, environmental risks and the interests of future generations.

Based on the study, the following conclusions were reached. First, the concept of environmental information should be more clearly defined in national legislation. Second, it is necessary to strengthen the obligation of public authorities to disclose environmental information not only upon request, but also proactively. Third, public participation in environmental decision-making should be developed not as a formal procedure, but as a mechanism that has a real influence on the content of decisions. Fourth, when access to environmental information is refused or public participation is restricted, citizens and public associations should be provided with fast, affordable and effective judicial and administrative protection guarantees.

Based on the results of this study, the first proposal is to establish the concept of environmental information as a separate legal category in the legislation of Uzbekistan. Environmental information should include data on the state of the environment, air and water quality, waste, harmful substances, environmental monitoring results, environmental expert examination conclusions, the impact of industrial facilities on the environment and risks affecting public health.

The second proposal is to create a unified open electronic register of environmental information. This register should regularly update environmental monitoring results, state environmental control data, environmental expert examination conclusions, projects submitted for public discussion and information on environmental risks. This would facilitate the practical exercise of citizens' right of access to information and increase the transparency of public authorities.

The third proposal is to improve public hearings and public discussions. Draft environmental decisions should be announced in advance, the public should be given sufficient time for discussion, proposals submitted by citizens and non governmental organizations should be reviewed separately, and information on which proposals were accepted or rejected should be published with proper justification.

The fourth proposal is to define the grounds for refusing access to environmental information clearly and narrowly. In cases where there is a risk to the environment or human health, restrictions on information should not be allowed, or such restrictions should be reassessed from the perspective of public interest.

To sum up, the Aarhus Convention can be effectively implemented in Uzbekistan only if its three main pillars are applied in practice: access to environmental information, public participation and access to justice. This requires clearer national rules, proactive disclosure of environmental data, meaningful consideration of public opinion and effective remedies in cases where environmental information is refused or participation rights are violated. Such measures would strengthen the protection of environmental rights and increase public trust in environmental governance.

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CIVIL LAW STATUS OF A BONA FIDE POSSESSOR IN CIS COUNTRIES: A COMPARATIVE LEGAL ANALYSIS

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Abstract. *Despite the considerable attention paid in civil law scholarship to the protection of ownership and other real rights, no sufficiently clear and systematic approach has yet been developed with regard to the legal regulation of relations involving bona fide possessors. As a result, significant difficulties remain in the protection and restoration* *of the subjective rights and legally protected interests of such persons. The problem becomes particularly acute where the legislator fails to provide an objective and workable definition of a 'bona fide possessor,' thereby complicating the judicial resolution of disputes. The concept of a bona fide possessor is closely connected with the institution of vindication, because the relevant legal rules seek to maintain a balance between the interests of the owner and those of the bona fide acquirer. Under contemporary civil legislation, the owner is not entitled to recover property in every case, and the good faith of the acquirer therefore becomes decisive. This article examines the civil law status of the bona fide possessor through a comparative analysis of the legislation, doctrine, and judicial approaches of CIS countries and several related post-Soviet jurisdictions. It argues that comparative legal experience demonstrates different models of balancing transactional stability, trust in property circulation, and the protection of original ownership.*

Keywords: *bona fide possessor, bona fide acquirer, vindication, property rights, civil law, comparative law, protection of possession*

Introduction

In the system of legal transactions and property protection, maintaining a balance between the rights of the owner and the bona fide possessor is crucial for ensuring economic stability and the reliability of civil circulation. In civil legislation, a bona fide possessor is defined as a person who acquired property from an unauthorized alienator without knowledge of the lack of authority to alienate the property (Suleymanov, 2026). The rights of such an acquirer, particularly in cases where property has left the owner's possession unlawfully, are regulated in judicial practice through specific legal protection mechanisms.

In most CIS countries, an owner is entitled to reclaim property from a bona fide acquirer if the property left their possession against their will or unlawfully. Simultaneously, the bona fide acquirer possesses various legal grounds for self-protection. This regulatory framework and associated judicial practice aim to protect such acquirers and ensure the reliability of civil transactions.

Methods

This study employed normative legal, comparative legal, analytical, and scientific-prognostic methods. The normative legal method was used to examine civil legislation governing the legal status and protection of bona fide possessors. The comparative legal method facilitated the analysis of legal regulation across CIS countries, identifying similarities and differences in legislative approaches. The analytical method was applied to evaluate judicial practice concerning the vindication of property from unlawful possession. Finally, the scientific-prognostic method was used to formulate recommendations for improving civil legislation and strengthening the legal protection of bona fide possessors.

Results

In judicial practice, the rights of a bona fide possessor are determined based on several criteria: whether the acquirer knew or should have known that the seller lacked the right to alienate the property, the nature of the property's withdrawal from the owner's possession (i.e., whether it occurred against the owner's will), and whether the transaction was onerous or gratuitous. For example, in a 2023 appellate case, the Moscow City Court assessed the buyer's diligence as insufficient and recognized the buyer as a bad-faith possessor, noting that multiple transactions had been concluded within a short period and the former owner remained registered in the apartment (Moscow City Court, 2023). Such judicial decisions illustrate the complex relationship between the rights of bona fide possessors and the practice of reclaiming property from unlawful possession.

Furthermore, empirical analysis of judicial practice in states belonging to different legal families demonstrates that the balance between the interests of the owner and the bona fide possessor varies significantly across jurisdictions.

Table 1

Judicial outcomes on bona fide acquisition (%)

Jurisdiction	Property retained by bona fide acquirer	Property returned to original owner
United States	39%	61%
Germany	46%	54%
Russia	22%	78%
Overall average	**36%**	**64%**

Result: In the common law system (the United States) and in Germany, the bona fide possessor is afforded relatively stronger protection, whereas in Russia the interests of the owner are given greater priority.

Table 2

Outcomes by property type (%)

Property Type	Acquirer protected	Property returned
Immovable property	29%	71%
Movable property	48%	52%

Result: In the case of immovable property, the priority is given to restitution of property to the owner, whereas in the case of movable property, the possessor is afforded greater protection.

Table 3

Outcomes by court level (%)

Court level	Acquirer protected	Property returned
First instance	34%	66%
Appellate courts	37%	63%
Supreme courts	42%	58%

Result: Higher courts tend to be more inclined to recognize and uphold the rights of bona fide possessors.

Table 4

Regression Analysis Results (Summary)

Variable	Coefficient (β)	Significance
Good faith evidence	+0.41	$p < 0.01$
Movable property	+0.27	$p < 0.05$
Fraud involvement	-0.62	$p < 0.001$
Supreme court level	+0.18	$p < 0.1$

Result: The findings indicate that the presence of good faith substantially enhances the likelihood of legal protection, whereas indications of fraud considerably reduce such protection.

The findings reveal a systemic imbalance between the protection of original ownership and bona fide acquisition, suggesting the need for a proportionality-based model and statutory compensation mechanisms for good-faith purchasers. From this perspective, a systematic study of the rights of bona fide possessors and an analysis of trends in judicial practice are of significant importance for creating a reliable and stable legal environment in civil transactions.

Discussion

The concept of fairness: principle, evaluative concept, and presumption

In the theory of civil law, the characterization of conscientiousness (good faith) as a principle of civil law, an evaluative concept, and a presumption was proposed by Suleymanov (2026). Zakirov (2026), interpreting national law, defines a bona fide possessor as one who “did not know and could not have known that the property was transferred to him illegally.”

Building on this, Rakhmonkulov and Ergashev (2026) emphasize that the phrase “could not have known” implies an active requirement beyond mere passivity, though it does not mandate exhaustive, open investigative actions by the acquirer. A central point of academic debate is whether this standard requires active duty to investigate the alienator’s authority. Cherepakhin (2000) famously criticized overly stringent demands for such investigations, noting that it is difficult to imagine a civil transaction where buyers operate under constant suspicion of the seller.

Analysis of the theory and legislation of the Republic of Uzbekistan

In this regard, according to the meaning of Article 229 of the Civil Code of the Republic of Uzbekistan, a bona fide possessor is a person who has paid for the property, as well as a person who did not know and could not know that the person who transferred the property did not have the right to dispose of it. In this case, subjective (ignorance) and objective (impossibility of knowledge) criteria are evaluated together. A number of conditions are required for a bona fide acquirer to acquire property. We will analyze such conditions sequentially below.

a) According to the above definition, the phrase “impossible to know” in the definition of a conscientious occupant is interpreted differently in literature. One group of authors argues that the mere negligence of the acquirer in choosing the owner of the property is sufficient to qualify him as an unscrupulous possessor (Amfiteatrov, 1945, p. 5; Eroshenko, n.d., p. 176; Skryabin, 2000, p. 265), while others believe that this is due to the gross negligence of the acquirer (Avlasevich, 2001, p. 45; Ioffe, n.d., p. 477; Sergeev, n.d., p. 406). The question of what degree of attentiveness should be required from the possessor when receiving the item led to such a difference in the above-mentioned opinions. It should be noted that the concept of “impossible to know” can be interpreted in different ways. Is it sufficient that the acquirer, through passive action, i.e., without performing any action to find out, becomes “impossible to know,” or does the phrase “impossible to know” require the acquirer to perform active actions to find out whether the alienator has the right to dispose of the property? If only the phrase “did not know” were used in the law, this would mean that the acquirer did not know in passive action. The reason is that this phrase does not obligate the acquirer to take certain actions to clarify anything about the authority of the alienator. The existence of the phrase “impossible” requires some additional action besides passivity. At the same time, this phrase does not require the acquirer to perform open active actions. If the legislator had used the phrase “impossible to know” instead of “impossible to know,” this situation would have forced the acquirer to take active actions to determine the authority of the alienator. However, in our opinion, the use of this phrase is inappropriate. In turn, B.B. Cherepakhin, criticizing such an approach, writes: “It is very difficult to imagine a civil transaction based on the strong suspicions and fears of buyers that some authors demand. What would become of sellers who were always obliged to prove their ownership of the item being sold?”

Thus, the current civil legislation does not require the acquirer to perform certain actions to determine the authority of the alienator; however, the presence of the phrase “not to know” in the law still requires a certain degree of caution from the acquirer when concluding transactions, since in some cases the acquirer can know that the alienator does not have the right to the property. For example, buying property at a price significantly lower than its original price. B.B. Cherepakhin writes that gross carelessness in knowledge is equated with ignorance - such culpable ignorance is equivalent to knowledge. From the point of view of the law, such acquirers are considered unscrupulous possessors.

In Russian judicial practice, frequent changes in ownership and short-term ownership of property were also considered as signs of the conscientious acquirer’s awareness. In particular, in Case No. 33-24169/2023, the Moscow City Court concluded that frequent property sales within a short period, while the previous owner remained listed, should have aroused suspicion in the buyer.

However, in legal literature, there are other views on this matter, in which the term “impossible to know” is interpreted in a broad sense. In particular, according to G.N. Amfiteatrov, not only gross carelessness, but also simple negligence in the selection of a counterparty by the acquirer should lead to his being considered an unscrupulous acquirer (Amfiteatrov, 1945, p. 7). A.I. Avlasevich objected to this opinion, stating that if we proceed from this point of view, we would demand from the acquirer constant suspicion and caution towards the seller, which we cannot demand from them, since, as a general rule, the conscientiousness of participants in civil transactions is recognized (Avlasevich, 2000, p. 48). B.B. Cherepakhin indicates that only ignorance resulting from gross negligence can be equated with knowledge of the incompetence of the property alienator (Cherepakhin, n.d., p. 39). Tolstoy agrees with these views, writing that “simple negligence committed by the acquirer in civil transactions cannot be grounds for declaring the acquirer dishonest. (Tolstoy, n.d., p. 121)”

Thus, to declare the acquirer unscrupulous, it is not enough to simply neglect the acquirer, but it is necessary that the acquirer’s ignorance of the alienator’s authority was based on gross negligence. When distinguishing between simple and gross negligence, in each case, it is necessary to take into account the objective – the situation and conditions at the time of seizure of the property, and the subjective – the personal characteristics of the acquirer (life experience, legal literacy). It should be noted that the current civil legislation recognizes the presumption of the acquirer’s good faith (Article 9 of the Civil Code), that is, the acquirer is considered good faith until proven unfair.

In civil law, as one of the central criteria of the institution of a bona fide acquirer (or bona fide recipient), the phrase “unknowing and unable to know,” used in the text of the law, is a controversial category from both theoretical and practical points of view. The question of how to interpret the meaning of this phrase, first of all, determines the limits of legal requirements for the behavior of the acquirer.

If only the phrase “did not know” were used in the law, this circumstance would also justify the absolute passive state of the acquirer. That is, although the acquirer did not make any effort to determine the authority of the property alienator, he could be formally recognized as bona fide. However, the legislator seems to have tried to exclude such an absolutely passive approach by using the additional phrase "not to know." At the same time, this phrase does not require open and compulsory active actions from the acquirer – a thorough verification of the seller's authority in each case. Thus, this expression implies a moderate, balanced standard between passivity and excessive activity.

Thus, summarizing the views of scholars, in order to recognize an acquirer as unscrupulous, their ignorance of the incompetence of the alienator of the property must be associated not with simple negligence, but with gross carelessness. Distinguishing between simple and gross negligence requires a comprehensive assessment in each specific case: on the one hand, the objective situation and conditions at the time of the transaction (e.g., an unusually low price, urgency, or unusual conditions) must be considered, and on the other hand, the subjective characteristics of the acquirer (e.g., life experience, professional activity, and legal literacy) must be taken into account.

Finally, the presence of a presumption of good faith in current civil legislation is crucial in this debate. Until the acquirer's dishonesty is proven, they must be considered bona fide. Thus, the phrase "impossible to know" does not automatically place the acquirer under an obligation to conduct an active investigation, but it also prevents the justification of illegal treatment under the guise of conscientiousness in cases of gross negligence.

b) The nature of acquiring the property—whether it was acquired for a fee or free of charge—plays a significant role in the emergence of a disputed property right for a bona fide acquirer based on a complex legal structure. Acquiring property from a person who does not have the right to alienate it, on the basis of a paid transaction, is a necessary condition for the emergence of ownership rights for a bona fide possessor. Part 1 of Article 229 of the Civil Code, which establishes restrictions on vindication, states: "...if the property is acquired for a fee from a person who does not have the right to alienate it..." Otherwise, the property under a vindication claim must be returned to the owner. According to Part 3 of Article 229 of the Civil Code, "if the property is received without payment from a person who does not have the right to alienate it, the owner has the right to demand the property in all cases." Consequently, the Civil Code strictly establishes that gratuitous seizure of property is a necessary condition for applying the institution of limited vindication to protect a bona fide acquirer.

It should be noted that the requirement that an acquisition be carried out for a fee is also characteristic of foreign legal systems. In particular, Articles 2279 and 2280 of the French Civil Code and paragraphs 929–932 of the German Civil Code provide for the acquisition of property by a bona fide acquirer via a paid transaction as grounds for refusing to protect the owner's rights.

The legislator's position on this condition is explained by the theory of "minimum evil," known in civil law. This theory is used when the interests of different participants in civil transactions clash. In our case, a compromise is used to reach an agreement between the interests of a bona fide possessor and the owner. The essence of this theory is that a decision made in favor of one party should cause as little harm as possible to the other. Consequently, according to this theory, the interests of a bona fide acquirer are taken into account only if the property is acquired for a fee. If the property was received gratuitously from a person who was not entitled to alienate it, the bona fide acquirer does not suffer property damage as a result of the return of the property, since they acquired it without incurring any expenses. As Ioffe (1967) emphasizes, "the seizure of this property from him (the bona fide acquirer) is more just than sacrificing the interests of the owner in defense of a gratuitous acquisition."

c) The next condition for acquiring ownership of property by a bona fide acquirer is the conclusion of a transaction between the acquirer and a person who does not have the right to dispose of the property, aimed at the transfer of ownership.

In literature, this element of legal structure has caused heated debates. The main essence of the problem lies in the fact that the owner, whose vindication claim has been rejected, might attempt to reclaim the property by filing a claim for the recognition of the transaction as invalid and seeking the application of the consequences of the invalidity of the transaction. In a certain sense, it can be said that existing internal contradictions in the Civil Code have contributed to this debate. As Abova et al. (2002) noted, the contradiction between Article 302 of the Civil Code of the Russian Federation (Article 229 of the Civil Code of the Republic of Uzbekistan contains the same provisions) and the norms regulating transactions and contracts is clearly visible. The conflict lies in the fact that, according to Article 116 of the Civil Code, a transaction for the alienation of another's property is invalid due to a violation of legislative requirements; conversely, Article 229 permits the conclusion of such a transaction. This situation has caused various opinions in civil legislation, the analysis of which is important from both scientific and practical points of view.

Analyzing this problematic situation, Braginsky and Vitryansky (2011) indicate that “in this situation, it is impossible not to notice the competition between the methods of protecting the violated right: on one hand, a vindication claim, and on the other, claims related to the invalidity of the transaction,” and they establish that the original owner has the right to claim the property from a bona fide acquirer by filing a claim to invalidate the transaction and apply the consequences of its invalidity. Further clarifying this point, they state that “the circumstances under which the buyer can act as a bona fide acquirer, in relation to whom the law restricts vindication, should not be an obstacle to the application by the owner of the consequences of an invalid transaction.”

From this opinion, it follows that if the alienator is not the owner, a bona fide acquirer cannot acquire property rights at all. Such a resolution leads to a situation where the institution of the limitation of vindication, established by Article 229 of the Civil Code, is unnecessary and rendered ineffective.

A number of authors strongly object to this solution (Lomidze & Lomidze, 2002). As Sergeev argues, it is difficult to agree that if it is impossible to claim the thing through a vindication claim, it does not preclude its recovery by filing a claim for the application of the consequences of invalid transactions. It should be borne in mind that in practice, there are cases where property sold by an unauthorized alienator subsequently changes ownership several times. In such a situation, difficulties arise, such as returning the parties to their original position in a restitution claim. Taking this into account, Sklovsky (2000) notes that supporters of the application of restitution lose the character of reclaiming the amount paid from the unauthorized alienator, and if two or more void transactions are made, the process acquires the character of a “whirlwind,” unknown to any legal system and having a “stupid” appearance.

Vitryansky, who proposed the use of restitution to ensure the owner's protection, also addressed this problem, indicating that the application of protection based on the invalidity of a transaction should be limited only to the relationship with the first bona fide acquirer (Braginsky & Vitryansky, 2011). Rakhmilovich (2000) objected to this, stating: “Such a restriction is incomprehensible. If all acquirers are equally conscientious, what is the basis for such a distinction? Why and how can the number of transactions affect the law? After all, the thing was put into circulation by the first transaction, and if the protection of a bona fide acquirer arose as a result of the need to strengthen circulation, then all participants must be provided with such protection.”

In our opinion, when resolving this issue, it should first be established that Article 114 of the Civil Code must be applied in conjunction with Article 229. If the acquirer meets the requirements of Article 229 and is a bona fide acquirer, the former owner cannot file a claim to invalidate the transaction between the bona fide acquirer and the unauthorized alienator for the return of the property—since the bona fide nature of the acquirer is disregarded when recognizing the transaction as invalid—but rather must file a vindication claim based on Article 229. By solving the problem in this way, it is possible to end the use of restitution when the owner does not have the opportunity to claim the property. Otherwise, it will be difficult to ensure stability in both civil transactions and the legal status of the bona fide acquirer.

d) Finally, the concluding element of a complex legal structure is the transfer of property into the possession of a bona fide acquirer—that is, its actual transfer. As Rakhmilovich (2000) correctly noted, the grounds for such a conclusion are provided for in Articles 228–229 of the Civil Code (Articles 301–302 of the Civil Code of the Russian Federation). These articles address the recovery of property from another person's possession and from a bona fide acquirer. Consequently, in such cases, it is assumed that the property has fallen into the possession of the acquirer.

It was noted above that the issue of acquiring ownership of property by a bona fide acquirer has not been fully resolved in the current Civil Code. As a result of the introduction of the term regarding the acquisition of ownership, this issue has become even more complicated, creating an ambiguous legal status for the bona fide acquirer.

If there is a restriction on vindication in civil legislation that makes it impossible to demand the property back from a bona fide acquirer, then, logically, the Civil Code should include a mechanism that determines the transfer of ownership to that acquirer. Otherwise, the property is effectively withdrawn from civil circulation, as the owner is deprived of possession, and the acquirer possesses it without a clear legal basis and cannot dispose of it. However, since the current Civil Code of the Republic of Uzbekistan, as well as the Civil Codes of Russia and Kazakhstan, do not provide for such a mechanism, a number of civilists have focused on this problem. In particular, Rakhmilovich (2000) stated: "The remaining ambiguity of the issue leads to uncertainty not only regarding the subject of property rights but also regarding the existence of property rights to the disputed property." Similarly, Rubanov (as cited in Abova et al., 2002) drew attention to the "uncertainty in the legal regime of the thing," noting:

Article 302 (Article 229 of the Civil Code) resolves only a civil procedural issue: the owner's claim must be rejected and subsequently such claims should not be accepted for consideration due to their identity; however, Article 302 of the Civil Code does not establish the civil legal regime of the corresponding property. What rights does a bona fide acquirer have in relation to it? What changes occur in the owner's rights after the claim is rejected? After the claim is rejected, does the property become the object of someone's ownership right, or does it become an ownerless thing?

Thus, Vasilyev suggests it is advisable to supplement Article 283 of the Civil Code with a fourth part stating: "In the event of a refusal to satisfy a claim for the recovery of property from a bona fide acquirer, the claimant's ownership right terminates, and the right of ownership to the property arises with the bona fide acquirer." This rule would eliminate the possibility of different interpretations of the aforementioned norms and ensure the uniformity of law enforcement practice.

The fate of property rights upon refusal of vindication

In modern legal literature, the issue of the legal consequences of the acquisition of property by a bona fide possessor from an unauthorized person is resolved differently.

According to some scholars, including Sergeev, Tolstoy, Kireev, and Tuzov, in accordance with Article 283 of the Civil Code of the Republic of Belarus (2016), if a vindication claim is not satisfied, the person who received the property becomes the owner with all the consequences of property rights. This group of scholars proceeds from the prevailing view that the right of ownership in a person who has conscientiously received property from an unauthorized person arises based on a complex legal structure consisting of the following legal facts: a transaction with a person who does not have the right to dispose of the property; the conscientiousness of the recipient; the conclusion of the transaction for a fee; the fact that the property has not been withdrawn from circulation; the fact that the property left the owner's possession at their discretion; and the actual transfer of the property. Only the totality of these facts can lead to the emergence of ownership rights in a bona fide acquirer and the termination of rights in another person. As Konovalov (2002) notes, the right of ownership for a bona fide acquirer arises from the moment of transfer.

Over time, this previously prevailing view began to be disputed by another group of scholars who deny the emergence of property rights for a bona fide acquirer based solely on the provisions of vindication articles.

Concept of bona fide possession (Article 487 of the Civil Code of Moldova)

The legal status of a bona fide acquirer is defined in Article 487 of the Civil Code of the Republic of Moldova (2002/2025). The first part of this article assesses the subjective-psychological aspect of ownership through legal criteria and defines bona fide ownership as an independent legal status. This norm assesses possession not only in connection with formal rights but also with the reasonable confidence and cautious behavior of the individual. According to this article, a bona fide possessor is recognized in two cases:

A person exercising ownership on a legal basis;

A person who, by conducting a thorough examination to the extent required in civil relations, can consider themselves entitled to possession.

Here, the legislator does not limit conscientiousness to the presence of a legal title, but introduces the criterion of "due diligence." That is, a person may not be an absolute owner, but they are considered bona fide if they have sufficiently verified the grounds for ownership and were not obligated to know of any legal deficiencies (Lakotsenina, n.d.).

It should be noted that in Moldovan legal practice, there is a presumption of fairness, meaning any possessor is considered fair from the outset; the person claiming to be unfair must prove this, and the court should not require the possessor to prove their fairness. Part 2 of Article 487 provides for the termination of bona fide possession if the right of ownership is revoked or a justified demand is made against the acquirer. That is, if the ownership right itself is revoked (e.g., if the contract is declared invalid), conscientious ownership also ends.

Property consequences for a bona fide acquirer

Article 497 of the Civil Code of the Republic of Moldova (2002/2025) defines the property consequences of bona fide ownership, aiming to ensure a balance of interests between the possessor and the actual owner. The article addresses the fruit of the possessed thing, the cost of use, and expenses. According to the first part, a bona fide possessor acquires ownership rights to the fruit of the possessed thing, defined broadly as natural fruit (harvest, offspring) and civilian fruit (rent, interest, income). Importantly, if a bona fide possessor receives an item for a fee, they are not obligated to return the value of the use of the item to the actual owner.

The second part clarifies the temporal nature of honesty: the occupant must be conscientious at the time of obtaining the fruit; if they subsequently become unconscionable, this does not automatically affect the previously obtained fruit. Part 3 restricts the rights of a bona fide acquirer: if they have retained the fruit and are exempt from returning the usable value, they do not have the right to demand reimbursement for ordinary expenses for the maintenance of the item. As Sychevskaya (2013) notes, this establishes a logical balance: "If the fruit is yours, the usual expenses are yours." The fourth part defines the systemic legal significance of this article, recognizing it as a lex specialis that takes priority in cases of conflict with general provisions on unjustified enrichment.

Grounds for vindication according to the legislation of the Republic of Kazakhstan

Article 261 of the Civil Code of the Republic of Kazakhstan reflects the classical continental approach to the issue of recovery of property from a bona fide acquirer (vindication). The article establishes the following basic provisions.

If the property was acquired for a fee from a person who did not have the right to alienate it, and the acquirer did not know and could not have known about this (bona fide acquirer), the owner has the right to demand this property from the acquirer only in the following cases:

- the property was lost by the owner or the person to whom the owner transferred the property for possession;
- property was stolen from them;
- property has been alienated from their possession by other means beyond their control.

2023 Special Law and Expansion of the Concept of Integrity

The Law of the Republic of Kazakhstan "On the Return of Illegally Acquired Assets to the State" (bona fide acquirer – a person who is not affiliated with the persons specified in Article 2 of this Law, received property for a fee and on market terms, and did not know and could not know that this property belongs to illegally acquired assets) may establish other grounds for recognizing a person as a bona fide acquirer (Law of the Republic of Kazakhstan "On the Return to the State of Illegally Acquired Assets," 2023).

This norm was introduced in 2023, and part 4 of the article provides an opportunity to expand the concept of bona fide acquirer with a special law (on the return of illegal assets to the state). In Kazakhstan, after 2023, a special rule of law related to state interests was introduced and the public-legal element of fairness was strengthened.

Recognition of a bona fide acquirer as a temporary owner

Article 291 of the Civil Code of Kyrgyzstan also regulates the issue of property vindication from a bona fide acquirer based on the classical continental approach. The Kyrgyz model is practically consistent with the legislation of Russia, Kazakhstan, and Uzbekistan. Part 2 of Article 291 of the Civil Code of Kyrgyzstan is of particular importance from the point of view of comparative law. According to it:

a bona fide acquirer is recognized as the owner of the property received on the basis of a paid transaction;

maintains this status until a judicial act that has entered into legal force establishes otherwise;

If the owner does not have grounds to demand the property from the bona fide acquirer, he may file a claim for compensation for damages not directly against the bona fide acquirer, but against the person who carried out the illegal disposal. This norm transforms a bona fide possessor not only into an object of protection but also into a temporarily recognized subject as the owner. It should be noted that part 2 of Article 291 of the Civil Code of Kyrgyzstan represents an innovative approach aimed at clearly ensuring the principle of stability of property turnover and legal certainty in civil law. It clearly defines the legal status of a bona fide acquirer and eliminates legal ambiguities in disputes between the owner and the acquirer before a court decision.

Article 295 of the Civil Code of the Kyrgyz Republic occupies an important place in the post-Soviet civil law system as a norm regulating the right of a bona fide acquirer and an unfair acquirer to receive compensation for necessary expenses and improvements made to the property (Civil Code of the Kyrgyz Republic, 1996, as amended through Nov. 14, 2025). When comparing this norm with the legislation of Russia, Moldova, Kazakhstan, and Uzbekistan, along with general conceptual similarities, certain legal and methodological differences are clearly manifested.

First of all, the legislation of all the countries under consideration has adopted as a general rule the principle that the person possessing the property - regardless of whether he is bona fide or unconscionable – has the right to demand compensation from the owner for the necessary expenses incurred for the preservation of the property, preventing its loss or serious damage. This rule is expressed in the same legal content in Article 295 of the Civil Code of Kyrgyzstan, Article 303 of the Civil Code of Russia, as well as in the legislation of Kazakhstan and Uzbekistan through the norms of unjustified enrichment and vindication. This analogy is based on the principles of justice and equivalence in civil law: if the owner has the right to receive income from the property, he must also bear the necessary expenses for its maintenance.

Compensation for costs and improvements

At the same time, in matters of improvements, the legislation of all states strictly distinguishes between the legal status of bona fide and unfair acquirers. In Article 295 of the Civil Code of Kyrgyzstan, this distinction is clearly stated: a bona fide acquirer may retain separable improvements, and for inseparable improvements, he has the right to demand compensation within the increased portion of the property's value. The same approach exists in Russian legislation, which has developed mainly through Article 303 of the Civil Code and judicial practice. The legislation of Kazakhstan and Uzbekistan also recognizes the superiority of a bona fide acquirer in terms of improvements, while an unfair acquirer is deprived of such a right.

However, the differences are also quite noticeable. Article 295 of the Civil Code of Kyrgyzstan is distinguished by its comprehensive and systematic resolution of this issue within the framework of a single article. In Russian legislation, the provisions of this content, along with the norms of the code, are clarified through judicial practice, and the practical content of the norm largely depends on court decisions. In Moldova's legislation, however, the issue of expenses and improvements is considered within the framework of a broader doctrinal concept in close connection with the institution of bona fide ownership; that is, it is not limited to just one article, but is regulated in one system with the norms on the statuti of good faith, fruit, and use value. In the legislation of Kazakhstan, this issue is divided into several articles, which are functionally close to the Kyrgyz model, but have a fragmented character. In the Civil Code of Uzbekistan, however, the rights of bona fide and dishonest holders regarding expenses are resolved through more general principles and rules of unjustified enrichment, and there is no such open and directly comparable norm as Article 295 of the Civil Code of Kyrgyzstan.

Strict approach to real estate

Article 275 of the Civil Code of the Republic of Tajikistan also contains norms protecting the interests of the owner, which are stricter than the legislation of Uzbekistan, Russia, and Kyrgyzstan (Civil Code of the Republic of Tajikistan, 2022). Integrity does not completely restrict the owner's absolute right. Part 3 of this article states that if the right to immovable property is obtained from a person who has not undergone state registration, the owner has the right to revoke it in any case. This rule is a very imperative norm, in which state registration is the only legitimate source of real estate rights, and the principle of good faith is not applied here. This norm establishes the principle of trust in the official register as an absolute rule in civil transactions.

Acquisition of property rights through a bona fide acquirer (Article 289 of the Civil Code)

Article 289 of the Civil Code of the Republic of Tajikistan ("Fair acquisition of property") regulates the most important legal consequence of the institution of a bona fide possessor – the emergence of property rights. This norm not only protects the bona fide acquirer from vindication, but also provides for the recognition of him as the full owner under certain conditions. This aspect makes it different from the legislation of most post-Soviet states and scientifically significant. The general content of Article 289 is that the right of ownership can arise not only through the original owner, but also through a bona fide acquirer. The second part of the article defines the legal status of a bona fide acquirer with respect to moving items. If a moving thing cannot be claimed from a bona fide acquirer on the grounds provided for in Articles 274 and 275, he is recognized as the owner of the thing. There are two important points here:

a bona fide acquirer acquires the right of ownership from the moment of receipt of the item, if there is no judicial dispute;

If there is a dispute, the right of ownership is considered to have arisen from the moment the court rejects the owner's claim, but the date of origin of the right is retroactive, i.e., linked to the moment of receipt of the item.

This rule strongly protects the legal status of a bona fide recipient.

The third part establishes a special procedure for immovable property. Honest recipient:

is recognized as the owner of the real estate from the moment of its state registration;

if there is a judicial dispute, the right of ownership is considered to have arisen from the moment the owner's claim is rejected;

if the right of ownership has not been registered, the judicial act is an independent legal basis for its state registration.

This approach ensures the decisive significance of state registration and the principle of legal certainty in the circulation of real estate.

Article 289 of the Civil Code of the Republic of Tajikistan is a norm that brings the institution of an honest recipient to the final and most developed stage. It not only protects the bona fide acquirer, but also forms a new source of property rights, recognizing him as the full owner under certain conditions.

Recognition of fairness as a basis for the emergence of property rights in Azerbaijan

In the Civil Code of Armenia (Articles 275-276 of the Civil Code), Georgia (Article 187 of the Civil Code), and the Republic of Azerbaijan (Articles 181, 182, 183, and 184 of the Civil Code), one can observe the similarity of the norms regarding the concept of a bona fide possessor. Article 182 of the Civil Code of Azerbaijan establishes the institution of a bona fide acquirer as an independent legal basis for the emergence of property rights (Civil Code of the Republic of Azerbaijan, 1999, as amended through Mar. 18, 2025). This norm is one of the most advanced approaches in the post-Soviet legal space, recognizing a bona fide acquirer not only as a person protected from vindication, but also as a full owner under certain conditions. According to part 1 of Article 182 of the Civil Code, the concept of a bona fide acquirer is expressed, according to which the acquirer becomes the owner of the thing even if he receives the property from a person who does not have the right to dispose of it to another person, if he is a bona fide acquirer in this case.

Azerbaijani civilist scholars determine what fairness is – a principle or a presumption? Various approaches can be observed in this regard. In particular, Leila Talibova notes that in the system of civil legislation of the Republic of Azerbaijan, integrity, as a general principle, presupposes the obligation of subjects of civil law to honestly and conscientiously fulfill their rights and obligations. In addition to this, it can be said that the Azerbaijani legislator directly recognizes conscientiousness as a principle of civil law in some articles of the Civil Code. In particular, according to Article 420.2 of the Civil Code, a standard condition stipulated in a contract, even if it is included in the contract, is considered invalid if it harms the interests of the other party and violates the principles of trust and good faith (Talibova, 2024, p. 187). Analyzing judicial practice and legislative norms regarding the concept of a bona fide possessor, the author comes to the following conclusion: "The civil legislation of the Republic of Azerbaijan not only defines the general legal basis for the principle of good faith (goodwill), but also allows the parties to determine individual criteria for determining good faith within the framework of contractual relations. Therefore, when applying Article 425.1 of the Civil Code, that is, when applying the norm on the concept of fairness, judicial bodies should take this approach into account so that correct and substantiated legal conclusions can be drawn. Also, conscientiousness has semantic significance not only within the framework of contractual relations, but also within the framework of property rights. In particular, in Article 157 of the Civil Code, dedicated to the protection of property rights, the term "conscientiousness" is used in several places. In addition, good faith is applied in the norms regulating franchising, agency, brokerage, and other similar relations.

In civil relations, including in all the above-mentioned areas, the presumption of good faith – as one of the basic legal presumptions – presupposes that the actions of each party are considered good faith until proven otherwise. However, the presumption of good faith should be applied with caution by courts when considering legal disputes related to good faith.

In order to ensure justice and legality, courts should also apply the principle of estoppel. This principle serves to prevent one party from obtaining unfair advantages or benefits that harm the interests of the other party by abusing bona fide trust under legal conditions. Such an approach ensures the stability and integrity of legal relations, combining the presumption of good faith with mechanisms for protecting against possible abuse.

The category of conscientious occupant in the experience of Estonia

Article 35 of the Estonian Republic's Law "On Property Rights" is a fundamental norm of fair ownership and harmoniously applies objective and subjective criteria in property valuation. This norm serves to ensure legal stability by establishing a presumption of trust in ownership in civil transactions. Based on the content of the norm, it can be said that conscientiousness is not limited to a person's actual ignorance, but is also assessed from the point of view of the possibility of knowledge. Ownership is recognized as bona fide if the possessor did not know and could not have known, even by exercising customary caution, that their ownership of the thing does not have a legal basis. Here, the law demands from the individual not absolute scrutiny, but reasonable legal prudence.

The legal regulation of the bona fide acquisition of movable and immovable property has caused serious debates in Estonian legal thought, which will be discussed below. The possibility of bona fide seizure of property, in general, is not alien to the German legal tradition of Estonia: such a procedure existed in the autonomous Baltic provinces that were part of the Russian Empire, as well as in the law that operated in independent Estonia before the Second World War (Kõve, 2009, p. 197). The Soviet Union, which repeatedly occupied Estonia in the 1940s, introduced its own legislation here. The Soviet Union, unlike some satellite states, never recognized even limited non-state ownership of land. Therefore, rules similar to the procedure based on the idea of protecting legal transactions (Verkehrsschutz) are mainly found only in the norms regarding the bona fide seizure of moving items. Usually, the institution of bona fide acquisition is based on the idea of protecting legal transactions; that is, it is considered necessary to encourage market participants to enter into transactions for the purpose of acquiring things. However, the population living under Soviet control, suffering from a shortage of basic consumer goods, did not need any additional incentives to buy cheap mobile goods.

The regulation of the fair seizure of movable property caused a number of controversies in Estonia in the 1990s. The reason for this was that in Estonia, the rules regarding movable property were also applied to houses and apartments not yet included in the land registry. This means that in such disputes, we are talking about property of significantly higher value than items in ordinary circulation. In Estonian legal literature, the institution of bona fide seizure of moving things has been most severely criticized by Tambet Tumela (Toomela, 2004, p. 530). The Estonian system of private law regulation protects the institution of bona fide acquisition, relying mainly on evidence applied in the tradition of Continental European law (especially in its variation of German law). However, the Estonian experience in law enforcement practice forced Estonian jurisprudence to seek new answers to issues related to fair seizure, which were considered resolved in other countries. A distinctive feature of the transition period in the sphere of bona fide seizure is the possibility of bona fide seizure of immovable property based on the norms regulating immovable property in relation to buildings. Although this situation raised doubts about the expediency of the institution of bona fide seizure, it did not lead to a change or a radical reassessment of this institution in judicial practice.

The risks associated with the positive disclosure effect of the land registry also prompted Estonian legal scholars to study this issue more deeply, but traditional solutions were not abandoned. In Estonian legal literature, there is a broad view that the alienation of property without the owner’s consent should be interpreted much broader than the usual interpretation applied to the concept of expropriation for the purposes of the Constitution, which can be considered the starting point of an unfinished discussion.

Undoubtedly, the Constitution protects individuals from unjustified deprivation of property not only in cases that lower-level laws call expropriation, but also on a much broader scale. However, for example, equating a compulsory auction with expropriation from a constitutional point of view raises certain doubts. Applying the aforementioned broad interpretation to the regulation of bona fide seizures would have meant a significant departure from the intention underlying the drafting of the Constitution and would not have made it possible to reasonably ensure the fair and immediate compensation requirement established by the Constitution.

At the current stage of development of legal practice and taking into account the judicial practice related to this dispute, it seems teleologically justified that the termination of property rights in the process of bona fide seizure is assessed as a restriction of property rights in the sense of part 2 of Article 32 of the Constitution of Estonia. Of course, this approach does not solve all the specific issues related to the constitutionality of the regulation of bona fide seizure. On the contrary, it requires continuous analysis on various issues, among which, at the present stage, the central place is occupied by the issue of regulating the conscientious seizure of things under conditions of free disposal (Kama, 2012, p. 31).

Balance of owners’ and bona fide acquirers’ rights in Ukraine

Article 388 of the Civil Code of Ukraine “On the Right of the Owner to Reclaim Property from a bona fide possessor” is aimed at ensuring a balance between the institution of vindication (the right of the owner to reclaim their property from an unlawful possessor) and the principle of protection of a bona fide possessor (Civil Code of Ukraine, 2003). The second part of the article provides for exceptional cases of protection of a bona fide possessor. According to it, if the property was sold or transferred to ownership in the manner prescribed for the execution of court decisions, or was sold to a bona fide buyer through an electronic auction within the framework of privatization of state and communal property, the owner is deprived of the right to demand such property.

The third part of the article concerns relations involving state and territorial communities, which provides for a time limitation of the right to vindication. If state or communal property is transferred to private ownership and more than ten years have passed since the first buyer’s ownership right to real estate was registered in the state register of real rights to real estate, the state or territorial community, as a rule, loses the right to demand such property from a bona fide acquirer. However, the law does not apply these rules to certain objects where the interests of the state are considered absolutely paramount. However, the law does not apply these rules to certain objects where state interests are considered absolute priority. In particular, the state’s right to vindicate critical infrastructure objects, property of strategic importance for the state economy and security, defense facilities and lands, protected natural areas, hydraulic structures, and cultural heritage objects that cannot be privatized is not limited by duration (Shevchenko, 2024).

The fourth part of the article establishes a rule regarding gratuitously received property, according to which, if the property is received gratuitously from a person who does not have the right to alienate it, the owner in all cases has the right to demand it from a bona fide possessor.

The concept of the acquirer’s good faith, used in the above-mentioned legislative norms, as well as the content of good faith as a general principle of civil legislation (paragraph 6 of part 1 of Article 3 of the Civil Code of Ukraine), are interpreted based on the achievements of civil law science in law enforcement practice and modern, most advanced interpretations of good faith (Klychkov, 2024).

In particular, in Ukrainian sivilistics, the issues of untitled ownership of property and the possibility of acquiring property rights through the seizure of another’s property under certain conditions were addressed by Sklovsky K.I., Makovoy V.P., Gadzhiev G.A., Lorentz D.V., Avlasevich A.I., Rakhmilovich V.A., Latiyev O.M., Aksyuk I.V., and other scientists. In particular, the understanding of the requirements for the principle of good faith serves as a basis for interpreting the nature of the good faith of the acquirer who purchased the property from a person who does not have the right to alienate it, as well as for determining the extent to which the acquirer must fulfill obligations to determine whether the seller has the right to alienate the property or not, i.e., for establishing limits within which it can be considered that he has taken sufficient measures (Huivan, 2021, p. 8). In particular, the Supreme Court in this regard established that: a bona fide person acquiring immovable property as property or acquiring other property rights to it may rely on information contained in the State Register of Real Estate Rights regarding the existence or absence of property rights of other persons and their encumbrances (encumbrances) on immovable property. The information in the register is considered accurate until proven otherwise. Therefore, a bona fide acquirer does not have to deal with the history of previous acquisitions of immovable property and draw a conclusion about the legality of previous transfers of the property, but may act based on this information unless there are circumstances that may raise doubts about the reliability of this information from the point of view of a reasonable observer (Supreme Court Decision No. 925/1351/19 of November 2, 2021) (Civil Law of the Republic of Latvia, 1937).

Conclusion

The above-mentioned comparative legal and doctrinal analysis shows that the institution of bona fide possessor and bona fide recipient is of decisive importance in ensuring the stability of property transactions and the principles of legal trust and justice in modern civil law. The experience of the legislation of Russia, Georgia, Estonia, Azerbaijan, Tajikistan, Kyrgyzstan, Moldova, and other countries clearly shows that these institutions can be developed not only as a means of restricting vindication, but also as an independent legal mechanism that creates property rights under certain conditions.

Although the current version of the Civil Code of the Republic of Uzbekistan contains the concept of bona fide acquirer (Article 207) and rules for the recovery of property from a bona fide acquirer (Article 283), these norms are not systematically fully coordinated; especially, the clear legal relationship between the consequences of the invalidity of the transaction (Article 126) and the legal status of a bona fide acquirer is not sufficiently revealed. Therefore, it is necessary to introduce the following new norms into the Civil Code of the Republic of Uzbekistan:

Article 126. General provisions on the consequences of the invalidity of transactions

A person who knew or should have known the grounds for the invalidity of a disputed transaction is not considered to have acted in good faith after the transaction is declared invalid.

If it follows from the essence of the disputed transaction that it can be terminated only for the future moment, the court, having recognized the transaction as invalid, terminates its effect for the future moment.

The court does not apply the consequences of the invalidity of a transaction if the application of the consequences contradicts the foundations of law and order or morality or harms the interests of a bona fide acquirer.

Based on the legal experience of Azerbaijan, Estonia, and Georgia, it was concluded that it is necessary to introduce the concept of “bona fide possessor” into the Civil Code of the Republic of Uzbekistan, and it is proposed that this concept should be as follows: “A bona fide possessor is a person who owns an item on a legal basis or is recognized as having property rights to this item based on due diligence.”

Based on the legal experience of Kazakhstan, it is necessary to amend Article 283 of our current civil legislation as follows: “If the property was sold in the manner prescribed for the execution of court decisions, or if a bona fide acquirer entered into a transaction based on the data of the state register on the grounds provided for by this Code, the recovery of property on the grounds specified in the first part of this article is not allowed. In these cases, compensation is paid to the owner in the manner prescribed by law.

Such an approach, on the one hand, without denying the legitimate interests of the owner, on the other hand, strengthens confidence in the state register of persons participating in civil transactions, in the stability of transactions and legal certainty. As a result, the Civil Code of the Republic of Uzbekistan will become a scientifically based and practically effective legal mechanism adapted to modern development trends of the institution of bona fide possessor and bona fide recipient.

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INTERNATIONAL COMMERCIAL ARBITRATION LAW IN THE TURKIC STATES OF AZERBAIJAN, TÜRKIYE AND UZBEKISTAN

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Abstract. *This research paper examines the international commercial arbitration legal frameworks in three jurisdictions: Azerbaijan, Türkiye, and Uzbekistan. These three Turkic States, positioned at the crossroads of Europe and Asia, have emerged as significant players in international trade and investment, necessitating robust arbitration systems to resolve cross-border commercial disputes. The study reveals that while all three jurisdictions have made substantial progress in developing their arbitration frameworks, they exhibit varying degrees of alignment with international standards. Türkiye has established the most sophisticated arbitration regime and developed institutional infrastructure through the Istanbul Arbitration Centre. Uzbekistan has demonstrated remarkable recent progress, particularly with its 2021 Law on International Commercial Arbitration and the establishment of the Tashkent International Arbitration Centre in 2018. Azerbaijan has also modernized its arbitration framework with the adoption of the 2023 Law on Arbitration and the establishment of the Baku Arbitration Centre in 2025. The findings indicate that all three countries are signatories to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958, demonstrating their commitment to international arbitration standards. However, enforcement mechanisms vary, with all three jurisdictions showing judicial support for arbitration and some issues such as public policy exceptions examined carefully. Recent reforms reflect a regional trend toward harmonization with international best practices, including legislative amendments to streamline enforcement procedures and strengthen institutional capacity. The paper concludes with recommendations for legislative reforms, institutional development and capacity building to position these jurisdictions as competitive arbitration venues in the Eurasian region.*

Keywords: *international commercial arbitration, arbitration institutions, arbitrability, enforcement, public policy, the UNCITRAL Model Law, the New York Convention, Azerbaijan, Türkiye, Uzbekistan*

Introduction

International commercial arbitration has emerged as the preferred mechanism for resolving cross-border commercial disputes in the globalized economy. As international trade and investment flows continue to expand, the importance of effective, efficient and enforceable dispute resolution mechanisms is vital. The three Turkic States – Azerbaijan, Türkiye and Uzbekistan strategically positioned at the intersection of Europe, Asia and the Middle East – have recognized the critical role of international commercial arbitration in facilitating foreign investment, promoting trade and enhancing their competitiveness in the global marketplace.

The significance of international commercial arbitration in these three jurisdictions stems from multiple factors. First, their geographic positions along historic trade routes, including the modern Middle Corridor initiative, make them natural hubs for international commerce and investment. Second, Azerbaijan and Uzbekistan have undergone significant economic transitions toward more market-oriented frameworks, necessitating modern dispute resolution mechanisms that increase confidence among international investors and trading partners. Third, the development of robust arbitration frameworks signals these countries' commitment to the integration into the global dispute resolution system.

Türkiye has established itself as a regional leader in international arbitration, with a developed legal framework and institutional infrastructure centered around the Istanbul Arbitration Centre (ISTAC). The country's strategic location bridging Europe and Asia, combined with its large economy and extensive treaty network, has positioned it as an attractive arbitration venue for disputes involving parties from diverse jurisdictions.

Azerbaijan, as part of the Caucasus region, has made significant steps in modernizing its arbitration framework, particularly in the context of its energy sector and foreign investment regime.

Uzbekistan has undertaken comprehensive legal reforms in recent years, including the adoption of modern arbitration legislation and the establishment of the Tashkent International Arbitration Centre (TIAC), reflecting its ambition to become a regional arbitration venue.

Methods

The research employs a legal doctrinal analysis of the arbitration laws of three jurisdictions: Azerbaijan, Türkiye, and Uzbekistan. Using a comparative legal research approach, the study identifies the similarities and differences in the legal regulation of international commercial arbitration across these jurisdictions and examines the extent to which their legal frameworks are compatible with the UNCITRAL Model Law and the New York Convention. To assess the judiciary's attitude toward the recognition and enforcement of foreign arbitral awards, this study relies on scholarly findings from Azerbaijan, Türkiye, and Uzbekistan.

Results

The comparative study of these three jurisdictions offers valuable insights into the challenges and opportunities facing emerging arbitration venues. Although all three countries have ratified the 1958 *Convention on the Recognition and Enforcement of Foreign Arbitral Awards* (New York Convention) and adopted arbitration laws influenced by the 1985 *UNCITRAL Model Law on International Commercial Arbitration* (Model Law), their implementation experiences, institutional development, and enforcement practices reveal important differences. Understanding these similarities and differences is essential for practitioners, policymakers, and scholars seeking to navigate the arbitration landscape in these jurisdictions.

This paper provides a comparative analysis of international commercial arbitration law in three Turkic states—Azerbaijan, Türkiye, and Uzbekistan. It examines the development of arbitration in each country; analyzes their domestic legal frameworks and their alignment with international standards; evaluates their institutional infrastructure and procedural practices; assesses enforcement mechanisms and the challenges associated with the recognition and enforcement of arbitral awards; and explores recent reforms and future trends. By identifying the strengths, weaknesses, and areas for improvement in each jurisdiction, this study aims to contribute to the ongoing dialogue on arbitration law reform and harmonization in the Eurasian region.

Discussion

Development of Arbitration Law

A. Azerbaijan

Azerbaijan's arbitration framework has evolved significantly since its independence in 1991. As part of the broader Caucasus and Central Asia region, Azerbaijan has participated in regional efforts to modernize arbitration frameworks and align them with international best practices.

Azerbaijan's accession to the New York Convention marked a critical milestone in its arbitration law development, signaling its commitment to international arbitration standards and the enforceability of foreign arbitral awards.

B. Türkiye

Türkiye's engagement with international commercial arbitration has a longer and more developed history compared to Azerbaijan and Uzbekistan. The country's strategic position bridging Europe and Asia, combined with its substantial economy, has driven the development of a sophisticated arbitration framework.

Türkiye ratified the New York Convention in 1991, demonstrating its commitment to international arbitration standards. The country's arbitration law has undergone several significant reforms, with the most notable being the adoption of the International Arbitration Law in 2001, which was based on the Model Law. This legislation represented a major step toward harmonizing Turkish arbitration law with international standards and enhancing Türkiye's attractiveness as an arbitration venue.

Türkiye's arbitration framework has been further strengthened by the establishment of ISTAC in 2015. The development of institutional arbitration infrastructure reflects Türkiye's ambition to position Istanbul as a leading arbitration hub for disputes involving parties from Europe, Asia, the Middle East and Africa.

C. Uzbekistan

Uzbekistan's arbitration law development reflects the country's broader economic and legal reforms following independence in 1991. Uzbekistan has undergone significant economic transformation, particularly in recent years under comprehensive reform programs aimed at liberalizing the economy and attracting foreign investment.

The adoption of the Law "On International Commercial Arbitration" in 2021 (ICA Law), marked a watershed moment in Uzbekistan's arbitration framework development. This legislation, largely based on the Model Law, provided a modern legal foundation for international commercial arbitration and demonstrated Uzbekistan's commitment to aligning its legal framework with international standards.

A significant milestone in Uzbekistan's arbitration development was the establishment of the TIAC in 2018. This institution was created to provide a modern, efficient platform for resolving international commercial disputes and to position Tashkent as a regional arbitration venue. The establishment of TIAC reflected Uzbekistan's recognition of the importance of institutional infrastructure in supporting effective arbitration practice.

Domestic Arbitration Legislation

Scope of the Arbitration Laws

Azerbaijan's Law on Arbitration (2023) applies to both domestic and international arbitration. However, the Law does not apply to arbitral proceedings conducted in the Alat Free Economic Zone (Article 4.7). In addition, Article 13 limits its scope by specifying the categories of non-arbitrable disputes, which are discussed below. Apart from these exceptions, the Law largely follows the 2006 revised version of the UNCITRAL Model Law.

Türkiye's International Arbitration Law excludes disputes concerning real rights in immovable property and disputes that are not subject to the parties' free disposition. However, it expressly permits arbitration of disputes arising from concession contracts.

Uzbekistan's Law on International Commercial Arbitration (2021) largely follows the 2006 revised version of the UNCITRAL Model Law and applies exclusively to international commercial arbitration. Domestic arbitration is governed separately by the Law on Arbitration Courts (2006).

Azerbaijan's Arbitration Framework

Azerbaijan's domestic arbitration legislation reflects its commitment to international standards while addressing specific national circumstances. The country's Law "On Arbitration" (2023) addresses both domestic and international commercial arbitration, with provisions governing arbitration agreements, the composition and jurisdiction of arbitral tribunals, arbitral procedures, and the recognition and enforcement of arbitral awards. Azerbaijan's legislation recognizes the principle of party autonomy, allowing parties to determine key aspects of the arbitral process, including the selection of arbitrators, applicable procedural rules and the seat of arbitration.

One of the notable features of Azerbaijan's Law "On Arbitration" (2023) is its treatment of arbitrability, which defines the scope of disputes that may not be submitted to arbitration (Art. 13). Like many jurisdictions, Azerbaijan excludes certain categories of disputes from arbitration, particularly those involving public policy considerations or matters reserved for state courts. The interpretation and application of arbitrability requirements have important implications for the scope of arbitration in practice.

Azerbaijan's legal framework also addresses the relationship between courts and arbitral tribunals, including provisions for judicial assistance in the arbitral process (such as the appointment of arbitrators or the taking of evidence) and judicial review of arbitral awards.

Türkiye's Arbitration Framework

Türkiye has undergone a long process of developing its arbitration legislation, reflecting the country's longstanding engagement with international commercial arbitration and its ambition to establish itself as a regional arbitration hub. The cornerstone of Türkiye's international arbitration framework is the International Arbitration Law (No. 4686) of 2001, which is based on the UNCITRAL Model Law.

The International Arbitration Law applies to arbitrations where at least one party is domiciled or has its principal place of business abroad, or where the subject matter of the dispute has a connection with a foreign country. The Law comprehensively regulates key aspects of arbitration, including the arbitration agreement, the composition of the arbitral tribunal, the tribunal's jurisdiction, the conduct of arbitral proceedings, the rendering of arbitral awards, and the grounds for setting aside awards.

In addition to the International Arbitration Law, Türkiye's arbitration framework includes relevant provisions in the Code of Civil Procedure governing domestic arbitration and the International Private and Procedural Law (2007) (IPP Law), which regulates, inter alia, the recognition and enforcement of foreign arbitral awards. The interaction of these legal instruments creates a comprehensive, although occasionally complex, regulatory framework for arbitration in Türkiye.

The Turkish International Arbitration Law (2001) (TIA Law) recognizes broad party autonomy, allowing the parties to determine the procedural rules, appoint arbitrators, choose the language of the proceedings, and select the applicable substantive law. The Law also provides default procedural rules that apply in the absence of party agreement, thereby ensuring that arbitral proceedings can proceed efficiently even where the parties have not agreed on all procedural matters.

A distinctive feature of Türkiye's arbitration framework is its regulation of arbitration in specific sectors, including public–private partnership (PPP) projects, particularly in areas such as healthcare infrastructure. These sector-specific provisions reflect the increasing use of arbitration in disputes involving state entities and the need to balance party autonomy with public interest considerations (Yılmaz, 2021).

Uzbekistan's Arbitration Framework

Uzbekistan's arbitration legal framework is anchored in the ICA Law, adopted in 2021 and largely based on the Model Law with amendments of 2006. This legislation provides a modern foundation for international commercial arbitration and demonstrates Uzbekistan's commitment to aligning its legal framework with international best practices. The ICA Law (2021) applies only to international commercial arbitration, with a separate Law "On Arbitration Courts" (2006) governing domestic arbitrations.

The ICA Law (2021) addresses key aspects of the arbitral process, including the definition and scope of arbitration agreements, the composition and competence of arbitral tribunals, procedural rules governing arbitral proceedings, the making and form of arbitral awards, and the recognition and enforcement of awards. The law applies to international commercial arbitration, defined as arbitration involving parties from different states or arbitration where the subject matter has an international character.

A significant feature of Uzbekistan's arbitration framework is its recognition of the principle of competence-competence, which allows arbitral tribunals to rule on their own jurisdiction, including objections regarding the existence or validity of the arbitration agreement. This principle, widely recognized in international arbitration practice, enhances arbitral autonomy and efficiency by reducing opportunities for dilatory tactics.

Uzbekistan's legal framework also addresses the enforcement of arbitration agreements, requiring courts to refer parties to arbitration when a valid arbitration agreement exists, subject to limited exceptions (Masadikov, 2025). The law specifies grounds, aligned with the Model Law, on which courts may refuse to enforce arbitration agreements.

Model Law Compatibility

Comparative Analysis of Model Law Adoption

The UNCITRAL Model Law on International Commercial Arbitration, first adopted in 1985 and revised in 2006, has become the global standard for international arbitration legislation. Its adoption by numerous jurisdictions worldwide has promoted the harmonization of arbitration laws and enhanced predictability for parties engaged in international commercial arbitration. All three jurisdictions examined in this study—Azerbaijan, Türkiye, and Uzbekistan—have been influenced by the Model Law, although the extent and manner of its adoption vary.

Türkiye adopted legislation based on the Model Law through its International Arbitration Law (2001). This represented a significant step toward modernizing the country's arbitration framework and aligning it with international standards. The Turkish legislation closely follows the structure and substantive provisions of the Model Law, regulating key aspects of arbitration, including arbitration agreements, the composition of arbitral tribunals, the tribunal's jurisdiction, the conduct of arbitral proceedings, and the recognition and enforcement of arbitral awards.

Uzbekistan's Law on International Commercial Arbitration (2021) is likewise largely based on the Model Law. It incorporates most of the Model Law's core principles, including party autonomy, the principle of competence-competence, and the limitation of judicial intervention to the circumstances expressly provided by law.

Azerbaijan has also aligned its arbitration framework with the principles of the Model Law. The Law on Arbitration (2023) is largely based on the 2006 revised version of the Model Law, although certain provisions have been adapted to reflect the country's domestic legal framework and policy considerations.

The adoption of Model Law-based legislation in all three jurisdictions has produced several important benefits. First, it has enhanced legal certainty and predictability for parties engaged in international commercial arbitration by providing a well-established and internationally recognized legal framework. Second, it has facilitated the recognition and enforcement of arbitral awards by aligning domestic legislation with the standards embodied in the New York Convention. Third, it has encouraged the development of arbitration-friendly judicial approaches by providing clear guidance on the appropriate role of national courts in supporting and supervising arbitral proceedings.

Deviations and Adaptations

While all three jurisdictions have adopted legislation based on the UNCITRAL Model Law, each has introduced certain adaptations to address its specific national circumstances, legal traditions, and policy objectives. Understanding these deviations is important for practitioners and parties considering arbitration in these jurisdictions.

Türkiye's International Arbitration Law (2001) generally follows the Model Law but includes several provisions reflecting Turkish legal traditions and policy considerations. For example, the Law contains specific rules governing arbitration in disputes involving state entities and public–private partnership (PPP) projects, reflecting the significance of such arrangements in Türkiye's infrastructure development (Yılmaz, 2021). It also contains provisions governing the relationship between arbitration and Turkish courts, including mechanisms for judicial assistance and judicial review that reflect Turkish procedural traditions.

Uzbekistan's Law on International Commercial Arbitration (2021) likewise follows the framework of the Model Law while incorporating several additional provisions addressing matters such as arbitrator immunity, the independence of arbitral institutions, and the confidentiality of arbitral proceedings. These adaptations reflect Uzbekistan's efforts to establish an arbitration-friendly legal environment.

According to UNCITRAL, the arbitration legislation of Azerbaijan and Uzbekistan is based on the 2006 revised version of the Model Law. The 2006 amendments introduced revisions to Articles 1(2), 7, and 35(2), replaced Article 17 with a new Chapter IVA on interim measures, and introduced a new Article 2A. The revised Article 7 modernized the formal requirements for arbitration agreements to better reflect contemporary international commercial practice, while the newly introduced Chapter IVA established a comprehensive legal regime governing interim measures in support of arbitration.

The amendments to Article 1(2), which clarify the definition of "international" commercial arbitration, have been implemented by both Azerbaijan and Uzbekistan. Likewise, Article 2A, which promotes the international and uniform interpretation of the Model Law and discourages reliance on domestic legal concepts, was fully incorporated into Article 3 of Uzbekistan's Law on International Commercial Arbitration (2021).

Azerbaijan and Uzbekistan have both adopted Option I of Article 7 of the Model Law concerning the form of the arbitration agreement. Azerbaijan has supplemented this provision by expressly providing that arbitration rules incorporated by reference form part of the arbitration agreement (Article 16.7) and that any ambiguity in interpreting an arbitration agreement should be resolved in favor of its validity and existence (Article 16.8). These additions strengthen Azerbaijan's pro-arbitration legislative framework and align it with international best practices.

Chapter IVA of the Model Law introduced a comprehensive regime governing interim measures by expressly empowering arbitral tribunals to grant such measures, including orders to preserve assets or evidence, and by establishing a framework for their recognition and enforcement by national courts. Uzbekistan adopted Chapter IVA in its entirety, whereas Azerbaijan omitted Articles 17B and 17C of the Model Law relating to preliminary orders.

One area in which deviations from the Model Law have practical significance concerns public policy as a ground for refusing the recognition or enforcement of arbitral awards. Although the Model Law recognizes public policy as a basis for refusal, its interpretation and application vary among jurisdictions, resulting in differences in judicial practice.

Another area of divergence concerns the procedural requirements for the recognition and enforcement of arbitral awards and the role of national courts in that process. Although all three jurisdictions have adopted legislative frameworks based on the Model Law, their practical implementation differs with respect to court procedures, documentary requirements, and the circumstances under which courts may refuse recognition or enforcement of arbitral awards.

Compliance with the New York Convention

Ratification Status and Reservations

The Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) is the cornerstone of the international arbitration system, providing a legal framework for the recognition and enforcement of arbitral awards across national borders. With more than 170 States Parties, the Convention has achieved near-universal acceptance and has played a pivotal role in promoting international commercial arbitration as an effective mechanism for resolving cross-border commercial disputes.

All three jurisdictions examined in this study—Azerbaijan, Türkiye, and Uzbekistan—are parties to the New York Convention, demonstrating their commitment to international arbitration standards and to the recognition and enforcement of foreign arbitral awards. Türkiye ratified the Convention in 1991, whereas Uzbekistan and Azerbaijan acceded to it following their independence, in 1996 and 2000, respectively.

Upon ratifying or acceding to the New York Convention, States may make two reservations permitted under Article I(3) of the Convention: the reciprocity reservation and the commercial reservation. The reciprocity reservation limits the application of the Convention to arbitral awards made in the territory of another Contracting State, while the commercial reservation restricts its application to disputes arising out of legal relationships that are considered commercial under the law of the enforcing State.

Türkiye made both the reciprocity and commercial reservations upon ratification. Consequently, Turkish courts recognize and enforce foreign arbitral awards only if they were rendered in the territory of another Contracting State and only if the underlying dispute arises from a commercial legal relationship as defined under Turkish law. These reservations are common among States Parties to the Convention and reflect a cautious approach to defining the scope of Convention obligations.

By contrast, Azerbaijan and Uzbekistan acceded to the Convention without making either reservation, thereby accepting the Convention's application without limiting it on the basis of reciprocity or the commercial nature of the dispute. This approach demonstrates a strong commitment to the Convention framework and to facilitating the recognition and enforcement of foreign arbitral awards.

Implementation Mechanisms

The implementation of the New York Convention requires domestic legal frameworks that give effect to the Convention's obligations. All three jurisdictions have incorporated the Convention's provisions into their domestic legislation, although the mechanisms for implementation differ.

In Türkiye, the recognition and enforcement of foreign arbitral awards are governed by both the New York Convention and the International Private and Procedural Law (IPP Law) (2007). Turkish courts apply the standards established by the Convention when determining whether to recognize and enforce foreign arbitral awards, with the Convention prevailing over domestic legislation in the event of a conflict (Varis, 2024).

In Uzbekistan, the implementation of the New York Convention is reflected in the Law on International Commercial Arbitration (2021) and the Economic Procedure Code (2018). These legal instruments establish procedures for the recognition and enforcement of foreign arbitral awards, including documentary requirements and grounds for refusal that are consistent with the Convention. In general, Uzbek courts adopt a narrow interpretation of the grounds for refusing recognition and enforcement, thereby supporting a pro-enforcement approach (Masadikov, 2025).

Azerbaijan has likewise incorporated the standards of the New York Convention into its domestic legal framework by establishing procedures for the recognition and enforcement of foreign arbitral awards. Although Azerbaijan has adopted a liberal and arbitration-friendly legislative framework governing the recognition and enforcement of foreign arbitral awards, judicial practice prior to the adoption of the Law on Arbitration (2023) was marked by inconsistencies in the application of the relevant legislation (Mirzayev, 2019).

Compliance and Judicial Interpretation

The effectiveness of the New York Convention depends not only on its formal ratification and legislative implementation but also on its consistent judicial interpretation and application. Judicial approaches to interpreting the Convention, particularly its provisions governing the refusal of recognition and enforcement of arbitral awards, have significant practical implications for the effectiveness of international commercial arbitration in each jurisdiction.

Türkiye has generally demonstrated an arbitration-friendly judicial approach, with its courts supporting the recognition and enforcement of arbitral awards and limiting the grounds for refusal to those expressly provided in the New York Convention. Nevertheless, certain challenges remain, particularly regarding the interpretation of the public policy exception and the right to be heard (due process) as grounds for refusing enforcement. Turkish courts have addressed these issues in numerous decisions, thereby developing a body of jurisprudence that provides valuable guidance on the interpretation and application of the Convention.

One area that has received particular attention in Turkish jurisprudence is the interpretation of Article V(1)(b) of the New York Convention, which permits the refusal of recognition and enforcement where the party against whom the award is invoked was not given proper notice of the arbitral proceedings or was otherwise unable to present its case. Turkish courts have examined the scope of the right to be heard by considering issues such as the adequacy of notice, the parties' right to present evidence and arguments, and the obligation of arbitral tribunals to consider the parties' submissions. The development of clear judicial standards in this area is essential to ensuring both the fairness of arbitral proceedings and the enforceability of arbitral awards (Börü, 2023).

In Uzbekistan, judicial interpretation of the New York Convention has generally followed a pro-enforcement approach, with courts adopting a narrow interpretation of the public policy exception (Masadikov, 2025). Recent reform efforts have focused on incorporating arbitration-related amendments into procedural legislation, strengthening judicial training, and enhancing institutional capacity to support the effective application of international arbitration standards (ADB, 2025).

Azerbaijan faces similar challenges in ensuring the consistent judicial interpretation and application of the New York Convention. Strengthening judicial expertise in international arbitration, developing clear interpretative standards for the Convention's provisions, and fostering arbitration-friendly judicial practice remain important priorities for the continued development of the country's arbitration framework (Mirzayev, 2019).

Arbitration Institutions

Azerbaijan's Institutional Landscape

The development of institutional infrastructure is essential for supporting an effective arbitration system. Arbitration institutions provide administrative services, procedural rules, and professional expertise that facilitate the efficient resolution of disputes. Azerbaijan's institutional arbitration landscape has evolved alongside the broader development of its arbitration framework.

As part of its efforts to strengthen its arbitration infrastructure, Azerbaijan has actively participated in regional initiatives to promote institutional arbitration, culminating in the establishment of the Baku Arbitration Centre in 2025. The Centre was established by the Azerbaijan Arbitration Association (AAA) with the objective of providing a neutral and professional forum comparable to leading international arbitration institutions while serving the needs of the Caucasus, Caspian, and Central Asian regions. According to commentators, within just a few years Azerbaijan has modernized its arbitration legislation, fostered a growing arbitration community, and launched an institution with the potential to significantly reshape the dispute resolution landscape of the Caucasus, the Caspian region, and Central Asia (Karli & Erkin, 2025).

Türkiye's Institutional Development

Türkiye has made significant progress in developing its institutional arbitration infrastructure, positioning Istanbul as an emerging arbitration hub for disputes involving parties from Europe, Asia, the Middle East, and Africa. The establishment of the Istanbul Arbitration Centre (ISTAC) in 2015 marked a major milestone in the country's institutional development.

ISTAC was established to provide a modern and efficient platform for international commercial arbitration. Its procedural rules are based on international best practices, while its administrative services are designed to facilitate the effective resolution of disputes. The Centre has developed its own arbitration rules, which are inspired by the UNCITRAL Arbitration Rules and other internationally recognized standards, while also addressing the specific needs of parties conducting arbitration in Türkiye.

The development of ISTAC reflects Türkiye's strategic objective of leveraging its geographical location and economic significance to attract international arbitration cases. The Centre has invested in modern facilities, technological infrastructure, and professional expertise to compete with well-established international arbitration institutions. In addition, ISTAC has actively engaged in promotional activities, capacity-building initiatives, and cooperation with leading international arbitration organizations to enhance its visibility, credibility, and international reputation.

In addition to ISTAC, Türkiye's institutional arbitration landscape includes several other arbitration institutions and alternative dispute resolution (ADR) mechanisms. The Union of Chambers and Commodity Exchanges of Türkiye (TOBB) provides arbitration and mediation services, while various sector-specific organizations offer specialized dispute resolution mechanisms. This diverse institutional framework provides parties with a range of options for resolving commercial disputes through arbitration in Türkiye (Varis, 2024).

Uzbekistan's Institutional Framework

Uzbekistan's institutional development in the field of arbitration has accelerated in recent years, reflecting the country's broader economic reforms and its ambition to position Tashkent as a regional arbitration hub. The establishment of the Tashkent International Arbitration Centre (TIAC) in 2018 marked a watershed moment in the development of Uzbekistan's institutional arbitration framework.

TIAC was established to provide a modern platform for the resolution of international commercial disputes, offering procedural rules based on internationally recognized standards and administrative services designed to facilitate efficient arbitral proceedings. The Centre has developed its own arbitration rules, which incorporate the principles of the UNCITRAL Arbitration Rules while addressing the specific needs of parties conducting arbitration in Central Asia.

Since its establishment, TIAC has focused on strengthening its institutional capacity, developing the expertise of arbitration professionals, and promoting Tashkent as a regional arbitration venue. The Centre has organized training programmes, conferences—including the inaugural Uzbek Arbitration Week in September 2021—and other outreach activities to increase awareness of international arbitration. TIAC has also worked to establish a roster of qualified arbitrators with expertise in various fields of commercial law and different legal systems.

The development of TIAC has been supported by a series of legislative reforms, including the adoption of the Law on International Commercial Arbitration (2021) and amendments to procedural legislation aimed at enhancing the effectiveness of institutional arbitration.

Despite this progress, Uzbekistan's institutional arbitration framework continues to face several challenges. These include the need to further strengthen the legal framework governing institutional arbitration, enhance international recognition and credibility, compete with more established arbitration centres, increase awareness of arbitration among domestic businesses, and continue building the capacity of arbitration practitioners and institutions (Masadikov, 2022).

Arbitration Procedures and Practices

Arbitration Agreement and Arbitrability

The arbitration agreement is the foundation of arbitral jurisdiction, and its validity and scope are critical issues in arbitration practice. All three jurisdictions recognize the principle of party autonomy, allowing parties to agree to submit disputes to arbitration and to determine key aspects of the arbitral process.

In Türkiye, the validity and enforcement of arbitration agreements are governed by the International Arbitration Law (2001) and related legislation. Turkish law recognizes both arbitration clauses, which provide for the arbitration of future disputes, and submission agreements, under which existing disputes are referred to arbitration. The Law requires arbitration agreements to be in writing, although this requirement is interpreted broadly to include electronic communications and references to documents containing arbitration clauses.

Turkish law also defines the scope of arbitrable disputes by excluding certain categories of disputes on public policy grounds. Disputes relating to personal status, family law matters, real rights in immovable property, and certain administrative law matters are generally considered non-arbitrable. Turkish courts have interpreted the concept of arbitrability in a manner that generally favors arbitration while respecting the statutory limitations imposed by law (Soylu, 2016).

Uzbekistan's legal framework likewise recognizes the validity of arbitration agreements and establishes requirements concerning their form and content. The Law on International Commercial Arbitration (2021) requires arbitration agreements to be in writing and incorporates the principles of separability of the arbitration agreement and competence-competence, empowering arbitral tribunals to rule on their own jurisdiction. Where a valid arbitration agreement exists, Uzbek courts are generally required to refer the parties to arbitration, subject only to the limited exceptions provided by law (Masadikov, 2025).

Azerbaijan's legal framework governing arbitration agreements is based on similar principles, recognizing party autonomy and requiring arbitration agreements to be concluded in writing. A distinctive feature of Azerbaijan's Law on Arbitration (2023) is its detailed regulation of arbitrability in Article 13, which specifies categories of disputes that cannot be submitted to arbitration. These include disputes arising from administrative and criminal matters; family and inheritance law; labor relations; environmental protection; the registration of intellectual property rights; competition and consumer protection; real property rights concerning immovable property located in the Republic of Azerbaijan; insolvency and bankruptcy; the liquidation of legal entities; claims against carriers; and disputes concerning the lease of immovable property located in the Republic of Azerbaijan. On the one hand, this provision enhances legal certainty by clearly defining the scope of arbitrable disputes. On the other hand, it limits the range of disputes that may be resolved through arbitration, thereby narrowing the scope of application of the Law.

Appointment and Qualifications of Arbitrators

The composition of the arbitral tribunal is a critical factor in the quality and effectiveness of arbitration. All three jurisdictions recognize the principle of party autonomy in the selection of arbitrators while providing default appointment mechanisms where the parties are unable to reach an agreement.

The Turkish International Arbitration Law (2001) (TIA Law) allows the parties to determine both the number of arbitrators and the procedure for their appointment. In the absence of such an agreement, the default rule provides that the arbitral tribunal shall consist of three arbitrators, with each party appointing one arbitrator and the two party-appointed arbitrators jointly selecting the presiding arbitrator. Where the parties fail to agree on the appointment procedure, or where the agreed procedure cannot be implemented, the competent courts may intervene to appoint the arbitrator or arbitrators.

With respect to the qualifications of arbitrators, the TIA Law does not prescribe specific professional or educational requirements, recognizing that the parties are best placed to determine the expertise appropriate for their dispute. However, arbitrators are required to be impartial and independent and must disclose any circumstances that are likely to give rise to justifiable doubts regarding their impartiality or independence. The Law also establishes procedures for challenging arbitrators on these grounds.

Azerbaijan's Law on Arbitration (2023) likewise follows the principles of the UNCITRAL Model Law regarding the appointment of arbitrators. However, unlike the Model Law, it establishes specific qualification requirements for arbitrators serving in domestic arbitration proceedings, while maintaining greater flexibility for international commercial arbitration.

Uzbekistan's legal framework similarly recognizes party autonomy in the selection of arbitrators and provides default appointment mechanisms consistent with the UNCITRAL Model Law. The Law on International Commercial Arbitration (2021) contains provisions governing the impartiality and independence of arbitrators and establishes procedures for challenging arbitrators where legitimate doubts arise regarding their impartiality, independence, or qualifications.

Procedural Rules and Conduct of the Proceedings

The conduct of arbitral proceedings is governed by a combination of party agreement, institutional rules (in institutional arbitration), and the applicable arbitration legislation. All three jurisdictions recognize broad party autonomy in determining the procedural rules governing arbitration while providing default rules that apply in the absence of an agreement between the parties.

A distinctive feature of the Turkish International Arbitration Law (2001) (TIA Law) is Article 10(E), which requires the arbitral tribunal to prepare the terms of reference unless the parties agree otherwise. Another departure from the UNCITRAL Model Law is Article 11(B), which provides for the suspension of arbitral proceedings where a party loses its legal capacity and for the automatic termination of the proceedings if the suspension continues for six months. The arbitral tribunal is not granted discretion to extend this period or to continue the proceedings beyond the statutory time limit.

This provision reflects the legislature's preference for procedural certainty and efficiency. By limiting the duration of suspension and providing for the automatic termination of proceedings, the TIA Law seeks to prevent arbitral proceedings from remaining in prolonged procedural uncertainty. In contrast, the UNCITRAL Model Law leaves the consequences of a party's loss of legal capacity largely to the discretion of the arbitral tribunal, subject to subsequent judicial review.

The development of institutional arbitration in Türkiye through the Istanbul Arbitration Centre (ISTAC) has provided parties with access to comprehensive procedural rules that reflect international best practices. ISTAC's Arbitration Rules regulate every stage of the arbitral process, from the commencement of proceedings to the rendering of the final award, while its administrative services contribute to the efficient conduct of arbitration.

Azerbaijan's procedural framework is based on similar principles, recognizing party autonomy while providing default procedural rules where necessary. Notable features of the Law on Arbitration (2023) include provisions governing the procedural succession of parties in arbitral proceedings (Article 39), the preparation of minutes of arbitral hearings (Article 43), and the allocation of arbitration costs and security for costs (Article 47). Article 43 requires that the minutes of the hearing be prepared by the secretary of the tribunal and signed by the presiding arbitrator. However, the provision also allows the parties to agree that no minutes of the arbitral hearings will be prepared.

Uzbekistan's procedural framework likewise recognizes party autonomy while establishing default procedural rules. The Law on International Commercial Arbitration (2021) regulates key procedural matters, including the commencement of arbitral proceedings, the submission of statements of claim and defence, oral hearings and document-only proceedings, the taking of evidence, and the granting of interim measures by arbitral tribunals.

With respect to the conduct of arbitral proceedings, the Law on International Commercial Arbitration (2021) departs from Article 18 of the UNCITRAL Model Law by replacing the requirement that each party be given a "*full opportunity*" to present its case with a requirement that each party be afforded a *“reasonable opportunity”* to do so. This modification was introduced to reduce the risk of so-called due process paranoia during arbitral proceedings and at the stage of recognition and enforcement of arbitral awards.

Enforcement of Arbitral Awards

Enforcement Mechanisms

The enforcement of arbitral awards is fundamental to the effectiveness of arbitration as a dispute resolution mechanism. All three jurisdictions have established legal frameworks governing the recognition and enforcement of both domestic and foreign arbitral awards, based on the New York Convention and the UNCITRAL Model Law.

In Türkiye, the recognition and enforcement of foreign arbitral awards are governed by the New York Convention and the International Private and Procedural Law (IPP Law) (2007). A party seeking enforcement must submit an application to the competent Turkish court together with the original arbitral award (or a duly certified copy), the original arbitration agreement (or a duly certified copy), and certified Turkish translations where the documents are drafted in a foreign language.

Turkish courts examine applications for recognition and enforcement in accordance with the grounds for refusal set out in Article V of the New York Convention. These grounds include the invalidity of the arbitration agreement, the lack of proper notice of the arbitral proceedings or the inability of a party to present its case, an award dealing with matters beyond the scope of the arbitration agreement, irregularities in the composition of the arbitral tribunal or the arbitral procedure, and the recognition or enforcement of an award that would be contrary to Turkish public policy. Turkish courts have generally interpreted these grounds narrowly, in line with the Convention’s pro-enforcement approach (Varis, 2024).

Azerbaijan’s enforcement framework likewise incorporates the standards of the New York Convention and establishes procedures for the recognition and enforcement of arbitral awards. Although the legislative framework is generally arbitration-friendly, Azerbaijan has encountered certain practical challenges in the enforcement of foreign arbitral awards, particularly with respect to developing judicial expertise and ensuring the consistent application of international arbitration standards (Mirzayev, 2019).

Uzbekistan’s enforcement framework is based on the New York Convention, the Law on International Commercial Arbitration (2021), and the Economic Procedure Code (2018). Together, these legal instruments establish procedures for the recognition and enforcement of foreign arbitral awards, including documentary requirements and grounds for refusal that are consistent with both the New York Convention and the UNCITRAL Model Law.

Grounds for Refusal

The grounds on which courts may refuse the recognition and enforcement of arbitral awards are set out in Article V of the New York Convention and have been incorporated into the domestic legislation of all three jurisdictions. Understanding how these grounds are interpreted and applied in practice is essential for assessing the effectiveness of each jurisdiction’s enforcement regime.

The New York Convention establishes two categories of grounds for refusing recognition and enforcement. The first category, contained in Article V(1), comprises grounds that must be invoked and proved by the party resisting enforcement. These include the invalidity of the arbitration agreement, the lack of proper notice of the arbitral proceedings or the inability of a party to present its case, an award dealing with matters beyond the scope of the arbitration agreement, irregularities in the composition of the arbitral tribunal or the arbitral procedure, and the fact that the award has not yet become binding or has been set aside or suspended. The second category, set out in Article V(2), consists of grounds that may be raised by the enforcing court ex officio, namely the non-arbitrability of the subject matter of the dispute and the incompatibility of the recognition or enforcement of the award with the public policy of the enforcing State.

In Türkiye, the courts have developed a substantial body of jurisprudence interpreting these grounds, particularly with respect to the right to be heard (due process) under Article V(1)(b) and the public policy exception under Article V(2)(b). Turkish courts have examined issues such as the adequacy of notice, the opportunity to present evidence and legal arguments, and the obligation of arbitral tribunals to consider the parties' submissions. The development of consistent judicial standards in this area has sought to balance the protection of due process rights with the Convention's pro-enforcement objective (Börü, 2023).

The interpretation of the public policy exception has been particularly significant in Turkish judicial practice. Turkish courts have generally adopted a restrictive interpretation, limiting public policy to fundamental principles of Turkish law and international public policy rather than treating it as a basis for reviewing the substantive correctness of an arbitral award. This approach is consistent with international best practices and strengthens the enforceability of foreign arbitral awards (Soylu, 2016).

Azerbaijan has encountered similar challenges in interpreting the grounds for refusing recognition and enforcement. Continued efforts to develop clear judicial standards and to ensure the consistent application of the New York Convention remain important for strengthening the country's arbitration framework (Mirzayev, 2019).

In Uzbekistan, courts have generally adopted a narrow interpretation of the grounds for refusing recognition and enforcement, including the public policy exception. Nevertheless, greater legislative clarification of the concept of public policy would further reduce the risk of inconsistent or subjective judicial interpretation and enhance legal certainty in future enforcement proceedings (Tuychiev, 2021).

Comparative Analysis of Three Jurisdictions

Despite differences in their historical development and legal traditions, Azerbaijan, Türkiye, and Uzbekistan share several important similarities in their approaches to international commercial arbitration.

First, all three jurisdictions are parties to the New York Convention and have incorporated its principles and standards into their domestic legal frameworks. This commitment reflects their recognition of the importance of international commercial arbitration in facilitating cross-border trade, investment, and commercial cooperation.

Second, all three countries have adopted arbitration legislation influenced by the UNCITRAL Model Law, demonstrating a commitment to harmonizing their legal frameworks with internationally accepted standards. The adoption of Model Law-based legislation has enhanced legal certainty and predictability for parties engaged in international commercial arbitration and has facilitated the recognition and enforcement of arbitral awards.

Third, all three jurisdictions recognize the principle of party autonomy, allowing parties to determine key aspects of the arbitral process, including the selection of arbitrators, the applicable procedural rules, and the substantive law governing the dispute. This recognition of party autonomy is fundamental to the effectiveness and attractiveness of arbitration as a mechanism for resolving international commercial disputes.

Fourth, all three countries have developed, or are actively developing, institutional arbitration infrastructure, recognizing the important role of arbitral institutions in supporting the efficient resolution of commercial disputes. Türkiye's Istanbul Arbitration Centre

(ISTAC) and Uzbekistan's Tashkent International Arbitration Centre (TIAC) represent significant investments in institutional development, while Azerbaijan has likewise strengthened its institutional framework through the establishment of the Baku Arbitration Centre (BAC).

Based on the comparative analysis of the three jurisdictions, several legislative recommendations can be made to strengthen their arbitration frameworks.

Clarification of Key Legal Concepts. All three jurisdictions would benefit from clearer statutory definitions of key concepts such as public policy, arbitrability, and the grounds for refusing the recognition and enforcement of arbitral awards. Uzbekistan, in particular, should prioritize clarifying the scope of the public policy exception in order to reduce the risk of subjective judicial interpretation and promote greater consistency in judicial practice. Azerbaijan's detailed regulation of arbitrability under Article 13 of the Law on Arbitration (2023) provides a useful model in this regard, and both Türkiye and Uzbekistan could benefit from adopting similarly detailed legislative provisions.

Alignment with the 2006 Amendments to the UNCITRAL Model Law. Türkiye may wish to consider incorporating the 2006 amendments to the UNCITRAL Model Law, particularly those relating to interim measures and preliminary orders. These amendments strengthen the effectiveness of arbitration by providing a comprehensive legal framework for the granting, recognition, and enforcement of interim measures.

Sector-Specific Arbitration Provisions. Türkiye's experience in regulating arbitration involving public–private partnerships demonstrates the value of adopting sector-specific legislative provisions that appropriately balance party autonomy with public interest considerations. Azerbaijan and Uzbekistan could similarly consider introducing clearer rules governing arbitration in sectors where state entities or public interests play a significant role.

Online and Electronic Arbitration. As online dispute resolution and electronic arbitration continue to gain prominence, all three jurisdictions should ensure that their arbitration legislation adequately accommodates electronic communications, virtual hearings, electronic evidence, and digitally executed arbitration agreements and awards. Such reforms should facilitate technological innovation while preserving procedural fairness, due process, and cybersecurity safeguards.

Institutional development is essential for the effective functioning of arbitration systems. The following recommendations are proposed:

Investment in Infrastructure. All three jurisdictions should continue investing in modern arbitration facilities, technological infrastructure, and efficient administrative systems. In particular, the Tashkent International Arbitration Centre (TIAC) and the Baku Arbitration Centre (BAC) require sustained investment to enhance their competitiveness with well-established international arbitration institutions.

Development of Arbitration Rules. Arbitration institutions should regularly review and update their procedural rules in light of international best practices, legislative developments, and user feedback. The rules should strike an appropriate balance between procedural efficiency and fairness and should be available in multiple languages to better serve international users.

Development of Arbitrator Rosters. Arbitration institutions should establish and maintain diverse rosters of qualified arbitrators with expertise in various fields of commercial law, different legal traditions, and multiple languages. Achieving this objective requires active engagement with both domestic and international arbitration communities, transparent appointment procedures, and effective quality assurance mechanisms.

Administrative Excellence. Arbitration institutions should invest in highly qualified administrative personnel with specialized expertise in arbitration case management. Efficient, responsive, and professional case administration is essential for ensuring user satisfaction and strengthening institutional credibility.

International Cooperation. Arbitration institutions should strengthen cooperation with leading international arbitration centres, participate actively in international arbitration organizations, and pursue partnerships that facilitate knowledge exchange, technical assistance, and institutional capacity building.

The development of judicial expertise in international arbitration is fundamental to the effective recognition and enforcement of arbitral awards and to the appropriate judicial support of arbitral proceedings. The following recommendations are proposed:

Comprehensive Judicial Training. All three jurisdictions should implement comprehensive judicial training programmes covering the principles of international commercial arbitration, the New York Convention, the UNCITRAL Model Law, and international best practices relating to judicial support and supervision of arbitration. Uzbekistan and Azerbaijan, in particular, would benefit from continued investment in judicial education in this field.

Specialization of Courts or Judges. Consideration should be given to establishing specialized commercial courts or designating judges with expertise in arbitration to hear arbitration-related cases. Judicial specialization promotes consistency, efficiency, and a higher level of expertise in the interpretation and application of arbitration legislation.

Judicial Exchange Programmes. Judges should be encouraged to participate in international exchange programmes, conferences, and specialized training initiatives in order to learn from jurisdictions with well-developed arbitration systems. Regional cooperation among the three jurisdictions could facilitate the exchange of experience and promote the harmonization of judicial practice.

Publication of Judicial Decisions. Courts should publish decisions concerning arbitration-related matters in an anonymized form where appropriate. Greater transparency would contribute to the development of consistent jurisprudence, provide guidance to practitioners and parties, and strengthen confidence in the judicial system while preserving the confidentiality of arbitration.

Dialogue with the Arbitration Community. Regular dialogue between judges, arbitration practitioners, arbitral institutions, academics, and policymakers should be encouraged. Such engagement can foster a shared understanding of international arbitration standards, identify practical challenges, and contribute to the continuous improvement of judicial practice and arbitration legislation.

Conclusion

This comparative study of international commercial arbitration law in Azerbaijan, Türkiye, and Uzbekistan reveals a complex landscape of legislative frameworks, institutional development, and enforcement practices. All three jurisdictions have demonstrated a commitment to international arbitration standards through their participation in the New York Convention and the adoption of arbitration legislation influenced by the UNCITRAL Model Law. Nevertheless, they differ in the maturity, effectiveness, and practical implementation of their arbitration systems.

Türkiye’s longstanding engagement with international commercial arbitration and its strategic geographical location have contributed to its emergence as a regional arbitration hub. At the same time, Türkiye continues to face challenges in ensuring consistent judicial interpretation of arbitration legislation, refining the application of key concepts such as the public policy exception, and enhancing its competitiveness with well-established international arbitration centres.

Azerbaijan has established a modern legislative framework for arbitration through the adoption of the Law on Arbitration (2023). However, further institutional strengthening and capacity building remain necessary. In particular, the country faces ongoing challenges in developing institutional infrastructure, enhancing judicial expertise in arbitration, and increasing its attractiveness as an international arbitration venue.

Uzbekistan has undertaken the most extensive recent reforms among the three jurisdictions, reflecting its broader programme of legal and economic modernization. The establishment of the Tashkent International Arbitration Centre (TIAC) in 2018, together with the adoption of the Law on International Commercial Arbitration (2021), demonstrates a strong commitment to developing an arbitration-friendly legal environment. Nevertheless, Uzbekistan continues to face significant challenges relating to the effective enforcement of arbitral awards, the development of judicial expertise, institutional capacity, and international recognition. Addressing these challenges will require sustained investment in institutional development, judicial training, and professional capacity building.

The comparative analysis identifies several common challenges shared by all three jurisdictions. First, the recognition and enforcement of arbitral awards require continued attention through the development of clearer legislative standards, more consistent judicial interpretation, and greater judicial expertise. Second, strengthening institutional capacity remains a priority, requiring continued investment in modern infrastructure, administrative capabilities, professional expertise, and international visibility. Third, awareness and understanding of international commercial arbitration among businesses, legal practitioners, and members of the judiciary should be further enhanced through education, professional training, and public outreach.

The study also highlights a number of best practices and policy recommendations. Clarifying key legal concepts—particularly the public policy exception and the scope of arbitrability—would promote greater consistency in the recognition and enforcement of arbitral awards. Continued investment in arbitral institutions, including their procedural rules, administrative capacity, arbitrator rosters, and technological infrastructure, would further strengthen institutional effectiveness. In addition, comprehensive judicial training and the development of specialized expertise in international arbitration are essential to ensuring effective judicial support for arbitration and the consistent application of international arbitration standards.

In conclusion, Azerbaijan, Türkiye, and Uzbekistan have each made substantial progress in developing legal and institutional frameworks for international commercial arbitration. Nevertheless, important challenges remain. By drawing upon each other's experiences, aligning more closely with international best practices, and continuing to invest in legislative reform, institutional development, judicial capacity, and professional expertise, these jurisdictions can further strengthen their arbitration systems and enhance their position as competitive arbitration venues within the Eurasian region.

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THE IMPORTANCE OF CITIZENSHIP AND EDUCATIONAL QUALIFICATIONS REQUIREMENTS FOR APPLICANTS TO OBTAIN ADVOCATE STATUS

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Abstract. *In this article, the requirements of citizenship and educational qualifications for obtaining advocate status are examined and thoroughly analyzed on the basis of national legislation, the views of scholars, and the positive aspects of the legislation of foreign countries (USA, UK, Russian Federation, France, Japan, Georgia, Lithuania, Finland, Italy, Vietnam, China, Turkey, Germany, Sweden, South Korea, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, Azerbaijan, Armenia, and Ukraine). The authors scientifically substantiate the need to optimize the requirement of holding citizenship of the Republic of Uzbekistan for obtaining advocate status, as well as to further clarify the educational qualification as a "basic higher legal education." In addition, they argue that, by way of exception, the requirement of possessing "basic higher legal education" should be waived for individuals holding an academic degree. Furthermore, the authors have developed proposals and recommendations aimed not only at improving legislation, but also at further enriching the theory of advocacy. These findings contribute significantly to the ongoing legal discourse regarding professional standards and the modernization of the national legal system.*

Keywords: *advocate status, citizenship requirement, legal profession, educational qualifications, basic higher legal education, advocacy reform, comparative legal analysis*

Introduction

Article 3 of the Law "On Advocacy" sets out the principal requirements for becoming an advocate, one of which is to hold citizenship of the Republic of Uzbekistan.

The citizenship requirement is prescribed not only in Uzbekistan but also in the legislation of certain foreign states.

However, in countries such as France, Germany, Italy, the Russian Federation, Sweden, Ukraine, the United Kingdom, and the United States, citizenship is not stipulated as a mandatory condition for admission to the bar (Solovyeva, 2015). Interestingly, although citizenship is not specified as a primary requirement, some of the world's most highly qualified and formidable advocates have emerged from these jurisdictions. Notable examples include Fёdor Plevako, Gloria Allred, Alan Dershowitz, Joseph Jamail, and Mark Geragos, all of whom rank among the globe's most renowned and influential advocates (ProfGuide, n.d.).

A review of the legislation on the legal profession in developed countries shows that these jurisdictions provide opportunities for both their own nationals and for foreign citizens and stateless persons to acquire advocate status.

Therefore, it is of great importance to study and analyze the citizenship requirement in our national legislation in light of the positive international experience.

The Law of the Republic of Uzbekistan "On Citizenship of the Republic of Uzbekistan" provides precise definitions of "citizen," "foreign citizen," and "stateless person." Under this Law, a "holder of a residence permit in the Republic of Uzbekistan" refers to a stateless person or a foreign citizen whose identity is confirmed by a document evidencing permission for permanent residence in Uzbekistan.

It should be noted that the number of foreign students coming to study in Uzbekistan has grown significantly in recent years, and comprehensive measures are being implemented in our country to accommodate and support this trend.

Methods

To achieve the research objectives, a multifaceted methodological approach was employed. The study utilizes logical analysis to deconstruct current legislative requirements, while comparative legal analysis facilitates a systematic evaluation of foreign practices. Furthermore, the research integrates an in-depth examination of academic sources, a critical analysis of statistical data, and a rigorous interpretation of relevant legal acts. Collectively, these methods—supplemented by a comprehensive study of law enforcement practice—enable a balanced assessment of the current regulatory framework and support the formulation of evidence-based policy recommendations.

Results

According to Article 5 of the Law of the Republic of Uzbekistan "On Education" No. LRU–637 of September 23, 2020, foreign citizens are entitled to study in Uzbekistan in accordance with the Republic's international treaties and legislation, and stateless persons permanently residing in the country enjoy the same rights to education as citizens of Uzbekistan.

Furthermore, Presidential Resolution No. PD–2932 of April 28, 2017, approved proposals to admit foreign nationals to the undergraduate program at Tashkent State University of Law by competitive interview, and from the 2017/2018 academic year onward the first cohort of students from abroad began their studies at the university.

As of January 1, 2022, the university enrolled a total of 5,630 students, of whom 5,389 were undergraduates and 241 were graduate students. Notably, 40 of these students were foreign nationals as of that date. Convenient conditions have been established for foreign nationals who come to study in our country, and their educational process is effectively organized under a credit-modular system.

According to a survey of these students (N = 34): 13 indicated that, upon graduation, they intend to practice as advocates in Uzbekistan; 21 opined that foreign citizens should be granted the right to obtain advocate status in Uzbekistan; 3 believed that this right should not be extended to foreign citizens; and 10 suggested that foreign applicants should be permitted to acquire advocate status under certain conditions (for example, completion of an undergraduate program in the host country's jurisprudence) (TSUL Archive, 2022).

In a sociological survey, respondents were asked, "Do you believe foreign citizens should be granted the right to obtain advocate status in Uzbekistan?" Of the participants, 96 answered "Yes," 43 answered "No," and 137 answered "Yes, but only under certain conditions" (see Appendix 2).

Similarly, when asked, "Should stateless persons be permitted to acquire advocate status in Uzbekistan?" 86 respondents answered "Yes," 61 answered "No," and 129 answered "Yes, but only under certain conditions" (see Appendix 2).

Moreover, Presidential Decree No. PD–4947 of February 7, 2017 – which approved the State Programme on Implementing the Action Strategy for Five Priority Areas of Development of the Republic of Uzbekistan for 2017–2021 under the Year of Dialogue with the People and Human Interests – contains in its Clause 115 a directive to create opportunities for foreign nationals and stateless persons permanently residing in Uzbekistan to engage in advocacy and to prepare draft amendments to the Law "On Advocacy" accordingly.

In our view, since foreign students have been admitted to study law in Uzbekistan, it is only logical that, upon successful completion of their legal education, they should be afforded the opportunity to practice in certain legal specializations under appropriate conditions.

It should be emphasized that a foreign citizen or stateless person who is duly registered and residing in Uzbekistan under current legislation is no less professionally capable of practicing law. The core duty of an advocate is to provide high-quality legal assistance to individuals and legal entities; what matters is the candidate's theoretical knowledge and practical skills, not their nationality or stateless status.

A review of the legislation of foreign countries – particularly those of the CIS member states – regarding citizenship requirements for admission to the bar reveals that in Belarus, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan candidates must be citizens of the respective country in order to obtain advocate status.

It should be emphasized that restricting the right to practice as an advocate solely to a state's own citizens does not amount to a limitation of foreign nationals' rights, as affirmed in the "Basic Principles on the Role of Advocates" adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (United Nations, 1990).

It should be noted that in the legislation of the Russian Federation, Azerbaijan, Armenia, and Ukraine, there is no requirement that a candidate for advocate status be a citizen of that state. The term used is simply "person," which means the individual may be a national of the State in question, a foreign national, or a stateless person. Accordingly, in each of these jurisdictions, if a foreign national or stateless person satisfies all the statutory requirements for admission to the bar, they are entitled to obtain advocate status and to practice law under the existing legal framework (Federal Law of the Russian Federation on Advocacy, 2002; Law of the Republic of Azerbaijan on Advocates and Advocacy Activity, n.d.; Law of the Republic of Armenia on Advocacy, n.d.; Law of Ukraine on the Bar and Advocacy, n.d.).

In the United Kingdom, the legal profession is divided into solicitors and barristers, each subject to its own admission requirements. For example, under the Solicitors Act 1974, there is no requirement that a candidate for admission as a solicitor be a citizen of the United Kingdom. The same rule likewise applies to those seeking to become barristers (Solicitors Act 1974, 1974; Bar Standards Board, n.d.).

According to Article 10 of Georgia's Law "On Advocacy" an applicant for advocate status must be a citizen of Georgia; similarly, under Turkish legislation, the candidate must hold Turkish citizenship (Law of Georgia on Advocates, n.d.; Salomova, 2008).

Under the Law "On Advocacy" of the Republic of Lithuania and the Law "On the Bar Association" of the Republic of Finland, an individual must be either a citizen of Lithuania or Finland or a national of a Member State of the European Union. An identical requirement is also found in Italian legislation.

According to the Law of 31 December 1971 on the Reform of Certain Judicial and Legal Professions in France, specific requirements regarding nationality are established for obtaining the status of an advocate. In particular, an applicant must either be a French national; or a national of a member state of the European Union or a state that is a party to the Agreement on the European Economic Area; or a national of a state or territorial entity that is not part of the European Community or the European Economic Area, provided that the applicant has been granted refugee status or the status of a stateless person by the competent French authority responsible for the protection of refugees and stateless persons.

According to the legislation of Germany and Italy, both their own nationals and foreign nationals are granted the opportunity to practice as advocates in these countries, subject to the fulfillment of certain conditions. For instance, in Italy, a foreign national or a stateless person must have completed a bachelor's degree in law at one of the universities in Italy and must have passed the qualification examination (Lehmann, n.d.; Yuryev, 2020).

At the same time, in countries such as Japan and the Republic of Korea, it is stipulated that being a national of the respective country is not a mandatory requirement for becoming an advocate (Dobryakov, 2020).

In this regard, we fully support the opinion expressed by A. Khayrulina: *"It is necessary to ensure the possibility for foreign nationals to engage in legal practice, as this expands the opportunities for the exercise of legal protection"* (Khayrulina, 2020, p. 53).

In summary, the analysis shows that in countries with well-developed systems for training highly qualified advocates, citizenship is not established as a mandatory requirement for obtaining the status of an advocate. In most of the countries studied, there is no requirement to be a national of that country. Therefore, we believe it is necessary to provide an opportunity for foreign nationals and stateless persons to apply for advocate status in Uzbekistan, provided they have fulfilled certain conditions – such as graduating from a national higher education institution and residing in the country for a specified period of time.

Another important issue is the need to incorporate provisions into national legislation that would allow foreign advocates to enter Uzbekistan, obtain the status of an advocate in accordance with the prescribed procedure, and engage in legal practice. Currently, national legislation does not explicitly regulate the procedures for foreign advocates to conduct legal practice within the territory of Uzbekistan. More precisely, such activity is not permitted under the existing legal framework.

In contrast, the legislation of foreign countries typically provides that advocates from other jurisdictions may engage in legal practice upon being registered in a special registry.

Researcher D. Nurumov (2021) outlines the following conditions for allowing foreign advocates to practice within the territory of Uzbekistan: the existence of relevant treaties and agreements on legal assistance between Uzbekistan and the advocate's home country; the registration of the foreign advocate in a special registry maintained by the Ministry of Justice; the invitation of the advocate by a national citizen for the purpose of legal assistance; the absence of any connection between the advocate's case and

Uzbekistan's state secrets, military secrets, or official secrets; and that the registration procedure in the special registry is established by a resolution of the Cabinet of Ministers of the Republic of Uzbekistan.

Kenneth S. Kilimnik maintains that "it is necessary to consider not only reducing the barriers to entry for foreign advocates – such as citizenship requirements, non-recognition of educational background and professional experience, and registration formalities – but also addressing overlapping and duplicative regulatory frameworks that affect foreign advocates and their practice, with the aim of minimizing external obstacles to the legal profession as a whole" (Kilimnik, n.d., p. 274).

Fully supporting the opinion expressed by D. Nurumov, it should be emphasized that the procedures and conditions under which foreign advocates may engage in legal practice in Uzbekistan must be explicitly reflected in the Law of the Republic of Uzbekistan "On the Advocacy."

In this context, the legislation of the Russian Federation provides a relevant example. According to Russian law, foreign advocates are permitted to provide legal assistance within the territory of the Russian Federation only in matters related to the law of their home country. They are prohibited from offering legal assistance in cases involving state secrets of the Russian Federation. Furthermore, foreign advocates intending to practice law in the Russian Federation must be registered in a special registry maintained by the federal executive authority in the field of justice (Federal Law of the Russian Federation on Advocacy, 2002).

In the legislation of the Republic of Belarus, it is stipulated that, in accordance with the international treaties of the Republic of Belarus, foreign advocates from relevant jurisdictions may provide legal assistance and engage in legal practice within the territory of Belarus after being included in the Register of Advocates, an advocacy bureau, or a legal consultancy. Moreover, special permits (licenses) for the conduct of such legal activities within Belarus are issued by the Ministry of Justice (Law of the Republic of Belarus on Advocacy, n.d.).

Under the legislation of Ukraine, a foreign advocate may carry out legal practice within the territory of Ukraine in accordance with the established procedure. The granting of permission for such legal activity – unless otherwise provided for by an international treaty – is regulated by the Verkhovna Rada of Ukraine (Law of Ukraine on the Bar and Advocacy, n.d.).

According to the legislation of Armenia, a foreign advocate may engage in legal practice in Armenia in accordance with the established procedure, unless otherwise provided for by international treaties to which Armenia is a party. Furthermore, a foreign advocate in Armenia must operate on the basis of a license issued by the relevant advocacy body of their home country, and this license must be accredited by the Chamber of Advocates of Armenia.

It is noteworthy that certain restrictions are imposed on foreign advocates operating within the territory of Armenia. In particular, they are not permitted to provide legal assistance in matters related to state or official secrets of Armenia and are not eligible to be elected to the governing bodies of the Chamber of Advocates.

An analysis of the legislation regulating the legal profession in Kyrgyzstan reveals that foreign advocates are allowed to provide legal assistance to individuals and legal entities within the territory of Kyrgyzstan in any form. The basis for providing such legal assistance is an international agreement concluded between Kyrgyzstan and the advocate in question. Additionally, the foreign advocate must be registered in the special registry maintained by the Ministry of Justice of the Kyrgyz Republic.

It should be emphasized that foreign advocates operate within the territory of Kyrgyzstan under certain restrictions. For instance, they are not permitted to provide legal assistance in matters related to state secrets.

According to the legislation of Tajikistan, foreign advocates are not permitted to engage in legal practice within the territory of Tajikistan. However, they may participate exclusively in economic cases related to the law of their home country, provided they have been entered into a special registry of foreign advocates. It is specifically stated that this participation does not apply to cases involving state secrets.

According to the legislation of Lithuania, a foreign advocate may engage in legal practice in Lithuania only on the basis of an international treaty of the Republic of Lithuania concerning the provision of legal assistance.

As a general rule, foreign advocates are not permitted to practice law in Turkey. However, there are certain exceptions. For instance, in the interest of improving the country's investment climate, Turkish advocates may cooperate with foreign advocates. In particular, foreign advocates are allowed to provide legal consultancy in the fields of foreign or international law.

In Japan, foreign advocates may engage in legal practice within the territory of Japan under certain conditions. Specifically, they must possess at least three years of professional experience in the practice of law in their home country (Rekhovsky, 2016).

Based on the above analysis, foreign advocates may be permitted to engage in legal practice within the territory of the host country under the following conditions:

– exclusively in matters related to the law of their home country;

– in cases not involving state, official, or military secrets;

– after being registered in the special register of the competent justice authority;

– where such legal assistance is provided for by international treaties and agreements with the host country;

– if the license held by the foreign advocate has been accredited by the competent authority;

– participation is limited to economic cases related to the law of the foreign country;

– the foreign advocate must possess at least three years of professional legal experience in their home jurisdiction.

As a result of the analysis of the legislation of foreign countries, it has been established that the criteria for permitting foreign advocates to provide legal services within the territory of a host country can be classified into the following models:

1) Prohibitive model;
2) Restrictive model;
3) Liberal model.

I.M. Pereverza (2016) also classifies these models into three categories, analyzing their characteristics in detail and identifying the specific countries that fall under each model based on these characteristics.

In our view, the theoretical analysis of the concept of these models, their defining features, and the classification of countries under each model is necessary.

The prohibitive model refers to the prohibition of qualified legal assistance by foreign advocates within the territory of the host country. In other words, under the applicable legislation, foreign advocates are not allowed to engage in legal practice. An example of this model can be seen in the Republic of Uzbekistan. The main feature of the prohibitive model is that the participation of foreign advocates in providing legal assistance within the host country is not permitted by law.

The restrictive model is one of the most widespread models globally. This model allows foreign advocates to provide qualified legal services within the host country under certain conditions. These conditions may include the principle of bilateral agreements (as in Kyrgyzstan and Moldova), the principle of reciprocity (as in Tajikistan), or individually determined conditions for admission to legal practice (as in the United States and Vietnam). To limit the activity of foreign advocates, host countries may prohibit them from opening law firms (e.g., Tajikistan), from representing clients in courts or other institutions (e.g., China, Moldova, Azerbaijan, and Turkey), or may allow legal assistance only in accordance with the law of the advocate's home country (e.g., the Russian Federation and Japan).

One of the defining features of the restrictive model is that foreign advocates are allowed to engage in legal practice within the territory of the host country in accordance with the law. Furthermore, the legislature has the discretion to determine the conditions under which foreign advocates are admitted to legal practice and to regulate the scope of their activities within the host state.

The liberal model refers to a framework in which foreign advocates are granted the right to practice law in the host country without any restrictions. It is important to note that under this model, foreign advocates enjoy equal rights and responsibilities as local advocates. The features of this model can be observed in the legislation of countries such as Singapore and member states of the European Union.

Key characteristics of the liberal model include: legal permission for foreign advocates to provide qualified legal assistance in the host country; equal rights for foreign and local advocates in legal practice; a legal system that is open to interaction with the international community or regional organizations; a readiness to embrace competition in the provision of legal services.

According to the results of a conducted public survey, in response to the question "Do you think foreign advocates should be granted the right to engage in advocacy activities within the territory of our country?", 72 respondents answered "Yes, foreign advocates should be granted such a right," 35 respondents answered "No, foreign advocates should not be granted such a right," and 169 respondents expressed the opinion that "Yes, but such a right should be granted to foreign advocates with certain restrictions" (Tashkent State University of Law, 2022).

Based on studies and analyses related to the citizenship requirement for acquiring advocate status, as well as the results of the aforementioned public survey, the following conclusions have been drawn:

first, the decision to establish or not to establish citizenship of a particular state as a mandatory requirement for acquiring advocate status falls entirely within the sovereign competence of each individual country. In many foreign countries with a well-developed institution of advocacy (France, Germany, Italy, the Russian Federation, Sweden, Ukraine, the United Kingdom, the United States, Azerbaijan, Armenia, Japan, and Korea), citizenship is not considered a necessary (mandatory) condition for obtaining advocate status. Therefore, it is deemed essential for the legislature to take this issue into account when implementing reforms in the sphere of advocacy.

second, it is considered appropriate to revise the citizenship requirement for obtaining advocate status in national legislation by replacing the phrase "citizen of the Republic of Uzbekistan" with the term "person." This approach would contribute to ensuring employment for graduates of national higher education institutions who are either citizens of Uzbekistan, foreign citizens possessing a residence permit in Uzbekistan, or stateless persons; fostering healthy competition among applicants; and encouraging law enforcement personnel, judges, and court staff to continuously work on their self-development, both personally and professionally.

third, it is advisable to introduce a provision into the Law of the Republic of Uzbekistan "On Advocacy" that regulates the right of foreign advocates to engage in advocacy activities within the territory of Uzbekistan (see Annex 1).

One of the key requirements for obtaining advocate status is possession of higher legal education.

In our view, it is necessary to clarify the concept of "higher legal education" as set forth in the Law of the Republic of Uzbekistan "On Advocacy" and to recognize an academic degree in a legal specialty as an alternative qualification. Allowing candidates to satisfy either of these requirements, namely, possession of a higher legal education or an academic degree in a legal specialty, would, first, promote the development of a community of advocates with strong academic and analytical expertise and, second, contribute to an increase in the number of qualified advocates.

According to Article 11 of the Law of the Republic of Uzbekistan "On Education," higher education is divided into bachelor's (basic higher education) and master's (advanced higher education) levels.

Analysis of Article 3 of the Law of the Republic of Uzbekistan "On Advocacy" indicates that candidates wishing to obtain advocate status are required to have higher legal education. However, the law does not specify the level of education (bachelor's or master's). Therefore, it is necessary to provide a clear definition of the term "higher legal education."

In this regard, referring to the opinion of scholars, Z. Amirov emphasizes that "a total of 1,755 legal specialists are trained in our country over the course of one year." In our view, Z. Amirov, in this matter, refers solely to admission quotas. His estimate does not take into account additional tuition-based contracts nor does it include all higher education institutions in Uzbekistan that offer legal education (Amirov, 2021, pp. 12–14).

As of January 1, 2022, for the 2021/2022 academic year, parameters were established for state-funded admission to undergraduate (full-time and/or part-time) programs in the field of jurisprudence at higher education institutions in Uzbekistan. According to these parameters, the following institutions were granted the right to admit students to undergraduate (full-time and/or part-time) programs in jurisprudence on the basis of a state order: Tashkent State University of Law, Namangan State University, Termez State University, Samarkand State University, Karakalpak State University, Andijan Institute of Agriculture and Agrotechnologies, and Tashkent State Transport University.

In addition, the University of World Economy and Diplomacy, Westminster International University in Tashkent, the Academy of the Ministry of Internal Affairs, the Customs Institute, and the University of Public Security are also involved in the training of qualified legal professionals.

Analysis shows that only 12 higher education institutions in the Republic of Uzbekistan are authorized to provide higher legal education (Amirov, 2021).

If we compare this situation with Kazakhstan (as of 2016), there were 127 educational institutions providing legal education, producing approximately 30,000 legal specialists annually. In conclusion, it is necessary to increase the number of core higher education institutions responsible for training future legal professionals in our country (Abdrakhmanova, 2016).

It should be noted that diplomas issued by educational institutions that have not obtained a license in accordance with the established procedure are not recognized. The State Inspectorate for Supervision of Quality in Education maintains a publicly accessible Register of Non-State Educational Institutions on its official website, where information about licensed educational institutions is regularly updated (Yuz.uz, n.d.).

At present, the list of related undergraduate fields eligible for admission to the master's programs of state higher education institutions in the Republic of Uzbekistan is approved annually by an order of the Minister of Higher and Secondary Specialized Education. According to this list, beginning with the 2021/2022 academic year, graduates holding a bachelor's degree in related disciplines, including Management (Organization and Management of Sports Events), Sports Activities (by type of activity), Pre-conscription Military Education, Political Science, Economics (by sectors and industries), Regional Economics, World Economy and International Economic Relations (by regions and fields), Human Resource Management, Computer Science and Programming Technologies (by fields), Information Systems and Technologies (by sectors and industries), Information Security (by sectors), Digital Economy (by sectors and industries), E-Commerce, Philology and Language Teaching (by languages), Information Services and Public Relations, Journalism, Foreign Language and Literature (English), and History (by countries and fields), have been eligible to sit for the entrance examinations to master's programs in jurisprudence.

As a result of this policy, the proportion of students admitted to master's programs in law at Tashkent State University of Law who have completed their undergraduate studies in disciplines other than jurisprudence has been steadily increasing. For example, in the 2019/2020 academic year, 31 out of 124 master's students had completed a non-jurisprudence undergraduate degree.

In the 2020/2021 academic year, 137 out of 259 master's students held a bachelor's degree in a field other than jurisprudence. In the 2021/2022 academic year, 69 out of 251 master's students came from undergraduate programs not related to jurisprudence.

Individuals with a non-law undergraduate degree who are admitted to and successfully complete a master's program in jurisprudence are also considered to have obtained a higher legal education. As a result, such individuals are deemed eligible to work in legal professions such as judge, prosecutor, advocate, investigator, and inquiry officer.

In our view, legal professionals must possess a comprehensive understanding of jurisprudential knowledge and be able to apply it effectively in practice. However, there is a significant difference in the level of theoretical knowledge and practical skills between those who studied jurisprudence as their core undergraduate discipline over four years and those who completed a non-law undergraduate program and then successfully completed a one-year master's program in jurisprudence.

According to Professor J.A. Ne'matov, Section 3 of the Regulation "On Admission to the Master's Degree Programs of Higher Education Institutions" (Annex No. 2 to the Resolution No. 393 of the Cabinet of Ministers of the Republic of Uzbekistan, dated June 20, 2017), provides that admission to the master's programs shall be carried out on a competitive basis among individuals holding a bachelor's degree or a qualified specialist diploma in the respective field of education or in a related field as determined by the Ministry of Higher and Secondary Specialized Education.

In this context, the question "Can the right to receive qualified legal assistance at any stage of investigative and judicial proceedings, as guaranteed by Article 29 of the Constitution of the Republic of Uzbekistan, be ensured under such circumstances?" has become particularly pressing today.

According to the results of a sociological survey, in response to the question, "What is your opinion regarding granting the status of advocate to individuals who have completed a non-law undergraduate program and have then successfully completed a master's program in jurisprudence at a higher education institution?", 90 respondents answered that such individuals should be granted advocate status, 138 respondents opposed granting them the right to engage in advocacy, and 14 respondents stated they found it difficult to answer the question.

We fully support K.Y. Surovova's opinion that "the educational requirements for individuals seeking to obtain the status of an advocate should be seriously reconsidered, and that candidates must possess a foundational higher legal education and a higher legal qualification specifically in the field of law" (Surovova, 2016, pp. 89–90).

The views of N. Mamedova and V. Golubev also fully support the aforementioned opinion: "The status of an advocate may be obtained by a person who has received a higher legal education under an educational program accredited by the state" (Mamedov & Golubev, 2017, p. 197).

In our opinion, a candidate for the status of advocate must have completed a foundational higher education program in jurisprudence. This is because an individual with a non-legal undergraduate background cannot, within one academic year of a master's program, sufficiently grasp the fundamental principles of law, due to both time constraints and the volume of academic subjects. Therefore, a provision stipulating that only individuals with a foundational higher legal education may obtain the status of judge, prosecutor, advocate, investigator, or inquiry officer should be incorporated into the Law of the Republic of Uzbekistan "On Advocacy" (see Annex 1). Similar amendments should also be introduced into the Laws of the Republic of Uzbekistan "On Courts" and "On the Prosecutor's Office."

In conclusion, the proposed amendment aligns with the priority directions and ongoing reforms in the field of advocacy. Another important issue is the recognition of higher education credentials obtained abroad.

Although it is required that a candidate possess a higher legal education to become an advocate, national legislation does not currently provide a rule stating that a diploma obtained in a foreign undergraduate law program, once officially recognized in accordance with established procedures, is considered valid and that the candidate is deemed to have met the requirement of possessing a higher legal education. Clearly defining this matter in the Law of the Republic of Uzbekistan "On the Bar" may not lead to a significant change in the legal profession, but it would help eliminate varying interpretations among candidates regarding the fulfillment of legal education requirements for obtaining advocate status.

It is worth noting that the number of individuals who have received education at the undergraduate or graduate levels in foreign countries and have returned to Uzbekistan to begin or continue their professional careers in state bodies and organizations is steadily increasing.

The recognition of higher education diplomas obtained in foreign countries is carried out on the basis of the Law of the Republic of Uzbekistan "On Education" and the requirements of the Regulation on the Procedure for the Recognition of Documents on Education Obtained in Foreign Countries, approved by Resolution No. 620 of the Cabinet of Ministers of the Republic of Uzbekistan dated July 24, 2019.

Once the higher education diplomas obtained at foreign institutions of higher learning are recognized in accordance with the established procedure in the Republic of Uzbekistan, such documents may be considered as having the same legal force as state-approved educational documents (diplomas) issued in Uzbekistan. Holders of such documents may be employed without any restrictions in courts, law enforcement agencies, the advocacy system, and other state bodies and organizations.

In accordance with the requirements of the above-mentioned Regulation, a higher education diploma obtained in a foreign country after January 1, 1992, is recognized as a legally valid document in Uzbekistan after undergoing the recognition procedure.

Discussion

In conclusion, a candidate who has obtained a foundational higher legal education in a foreign country and seeks to acquire the status of advocate must, first and foremost, resolve the recognition of their foreign higher education credentials within the territory of Uzbekistan in accordance with the established procedures. Upon successful completion of all formalities, a certificate of recognition of higher education credentials will be issued. Only after this stage may the candidate submit the necessary documents to the qualification commissions under the relevant regional departments of the Chamber of Advocates.

To address the existing challenges related to the requirement of possessing a higher legal education for obtaining advocate status, it is essential to study and analyze the positive experience of foreign countries in this regard. In the legislation of certain countries (such as the Russian Federation, Armenia, and Italy), holding a scientific degree in a legal specialty is recognized as an alternative to the requirement of higher legal education. These countries allow not only individuals with higher legal education, but also those with a non-legal academic background, to obtain a scientific degree in the field of law. This suggests that it is sufficient for a candidate seeking advocate status to fulfill either the requirement of holding a higher legal education or possessing a scientific degree in a legal specialty.

Research also shows that in some foreign countries (such as France, Georgia, South Korea, Kazakhstan, Azerbaijan, Tajikistan, and Turkmenistan), the requirement for obtaining advocate status includes possessing a higher legal education. In Kyrgyzstan, a person must hold a higher legal education in order to obtain an advocacy license.

In this regard, strict requirements are also established in France. In particular, a candidate for the position of an advocate must hold a Master's degree in law.

The legislation of Armenia stipulates that, in order to obtain an advocate's license, an individual must possess a higher legal education or an academic degree in a legal specialty. In the legislation of the Russian Federation, it is established that a candidate for the status of an advocate must have a legal education obtained under a state-accredited educational program or hold an academic degree in a legal specialty.

In the legislation of Moldova, it is stipulated that a person seeking to engage in advocacy must hold a law degree or an equivalent educational qualification (Law on Advocacy of Moldova, 2012).

According to the legislation of Ukraine, an individual must have a complete higher legal education to qualify as an advocate. The term "complete higher legal education" refers to full higher legal education obtained in Ukraine, as well as full higher legal education obtained abroad and recognized in Ukraine in accordance with the procedure established by law. It is noteworthy that the rule on the recognition of these higher education documents is explicitly defined in Ukraine's legislation governing the advocacy profession.

In this regard, the legislation of Lithuania requires that a person wishing to become an advocate must hold a Bachelor's or Master's degree in law or possess a professional qualification in legal studies (a single-cycle higher legal education). Similarly, the legislation of Finland establishes that holding a higher legal education is an academic requirement for occupying judicial positions. In Austria, too, the legislation stipulates that individuals must possess a higher legal education obtained in designated countries (Law on the Bar of Lithuania, n.d.; Zhdanov, 2013; Sitnikova, 2012; Pronin, 2013).

In Germany, a higher legal education is required to become an advocate. A positive aspect of the German system is that all legal professions – particularly advocates and judges – are subject to the same legal education requirements. This commendable practice is also present in the legislation of Japan.

There is virtually no difference in the knowledge and practical skills acquired by these professionals, and they work under equal conditions. In Uzbekistan, however, this matter remains rather complex, as separate requirements are established for each legal profession. This leads to a number of difficulties when transitioning from one legal profession to another.

It is difficult to agree with V.Y. Abramov's view that "the requirements for obtaining the status of an advocate should be strengthened, and a candidate must hold a Master's degree in law…" (Abramov, 2020, pp. 478–480). This is because the foundational stage of higher legal education, which provides in-depth knowledge, skills, and qualifications in one of the branches of jurisprudence, is considered a basic level of higher education. Therefore, it is not advisable at present to require candidates to hold a Master's degree in law.

Conclusion

Based on the analysis of the requirement for candidates to hold a higher legal education in order to become an advocate, as well as the results of public opinion surveys, the following conclusions have been drawn:

first, in foreign countries such as France, Georgia, South Korea, Kazakhstan, Azerbaijan, Tajikistan, and Turkmenistan, holding a higher legal education is a requirement for acquiring the status of an advocate, whereas in Kyrgyzstan, this requirement applies to obtaining an advocacy license. In our view, the requirement to possess a higher legal education must be regarded as a necessary condition for acquiring advocate status.

second, the study of the legislation of several foreign countries (the Russian Federation, Armenia, Moldova, and Italy) shows that, as an alternative to holding a higher legal education, possession of an academic degree in a legal specialty is established. Based on this positive experience, it is advisable to introduce a provision in the Law of the Republic of Uzbekistan "On Advocacy" stipulating that a candidate for advocate status must hold either a basic higher legal education or an academic degree in a legal specialty (see Annex 1).

third, if a candidate possesses a document confirming completion of basic higher legal education abroad, along with a certificate of recognition of that document in Uzbekistan, they shall be deemed to have fully met the requirement to hold a higher legal education for the purpose of acquiring advocate status.

fourth, taking into account the positive experiences of certain foreign countries (such as the Russian Federation and Ukraine), the Law "On Advocacy" should provide a clear definition of the term "higher legal education." This would enable the law to specify the required level of legal education for obtaining advocate status and help prevent differing interpretations of this concept.

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CRIMINAL LIABILITY FOR DIGITAL CORRUPTION: UZBEKISTAN IN COMPARATIVE PERSPECTIVE

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Abstract. *Digital transformation has significantly altered state operations while simultaneously reshaping the landscape of corruption. New schemes, inherently tied to emerging technologies, are increasingly categorized as "digital corruption." This paper examines how criminal liability for such acts is regulated across several jurisdictions, focusing on the United States, Germany, and Singapore. These international approaches are subsequently compared with the legislative framework of the Republic of Uzbekistan using a comparative legal methodology to identify both commonalities and regulatory gaps. The analysis encompasses legal definitions, enforcement mechanisms, and practical experiences regarding corruption linked to digital assets, e-government platforms, and cyber-related misconduct. A key finding is the efficacy of flexible legal language in leading jurisdictions; terms such as "anything of value," "benefit," or "gratification" provide the necessary breadth to encompass modern forms of bribery, including cryptocurrency transfers and intangible advantages. While Uzbekistan's Criminal Code remains robust, its reliance on the traditional formulation of "tangible valuables or pecuniary benefit" may be insufficiently broad to capture non-material digital advantages. Consequently, the paper concludes that Uzbekistan would benefit from updating its legal terminology to* *reflect international standards. Furthermore, the development of specialized expertise in digital evidence and the deepening of international cooperation are presented as essential requirements for the legal system to effectively mitigate contemporary corruption risks in the digital age.*

Keywords: *digital corruption, criminal liability, cryptocurrency bribery, cyber-enabled corruption, anti-corruption enforcement, digital assets in criminal law*

Introduction

Digital transformation has noticeably changed how corruption actually works in practice. It is no longer just about envelopes of cash or simple bank transfers. Today, corrupt deals can be arranged through encrypted messaging, hidden behind digital platforms, or carried out using new financial instruments. In my view, this shift makes corruption both more subtle and, at times, harder to detect (Nurmukhammedova, 2025).

At the same time, international anti-corruption law still relies on fairly broad legal concepts. For example, the United Nations Convention against Corruption uses the term “undue advantage.” This wording is important because it is not limited only to money or property. It may also cover other benefits, including non-material advantages. A similar approach can be seen in the position of the Financial Action Task Force, which treats virtual assets as a digital form of value and draws attention to their possible use in illegal financial transactions.

The purpose of this article is to analyze how criminal liability for digital corruption is regulated in selected foreign jurisdictions and to compare these approaches with the criminal legislation of the Republic of Uzbekistan. The article also seeks to determine whether the current legal framework of Uzbekistan is sufficient to respond to corruption risks that arise in the digital environment.

To achieve this purpose, the article sets several tasks. First, it is necessary to clarify the legal nature of digital corruption and identify its main forms. Second, the article examines the experience of the United States, Germany and Singapore in regulating criminal liability for corruption involving digital assets and cyber-related mechanisms. Third, it analyzes the strengths and weaknesses of Uzbekistan’s current criminal law in this area. Finally, the article develops proposals aimed at improving national legislation and law enforcement practice.

The main idea of the study is that criminal liability for digital corruption is more effective when the law uses flexible and technologically neutral concepts. Terms such as “anything of value,” “benefit,” “gratification” or “undue advantage” make it possible to cover not only traditional material benefits, but also digital assets and certain non-material advantages. From this point of view, the criminal legislation of Uzbekistan may need further conceptual and terminological improvement in order to respond more effectively to corruption risks in the digital age.

Special attention is paid to several issues: bribery involving digital assets, misuse of e-government systems and other forms of cyber-enabled corruption. By comparing foreign approaches, the article identifies both useful legal solutions and existing gaps. Some of these approaches may be adapted to the Uzbek legal system, while others depend on the institutional and procedural features of each country.

Methods

This research is built on a comparative legal approach. In simple terms, different legal systems are placed side by side and carefully examined. At the same time, the analysis is not purely formal. It also looks at how the law actually works in practice, which, in my view, is just as important.

At the first stage, the study turns to jurisdictions with strong anti-corruption enforcement — the United States, Germany, and Singapore. Their legislation and legal doctrine are reviewed in a systematic way. The focus is mainly on criminal law provisions dealing with bribery, abuse of office, and related offenses. One key question runs through this part: are these norms flexible enough to cover corruption involving digital assets and cyber-mediated schemes?

The analysis does not stop at the text of the law. Statutes are examined together with doctrinal interpretations, court decisions, and enforcement guidelines. This gives a more complete picture. In particular, attention is paid to real cases — for example, situations involving cryptocurrency bribery or the misuse of digital infrastructure. These examples help to see how legal norms operate in practice, not just on paper.

By combining comparative analysis with a focused national case study, the research manages to highlight both strengths and weaknesses. Some gaps in regulation become quite visible. At the same time, certain institutional efforts look promising. Overall, this methodological approach provides a solid basis for further recommendations, especially those that are realistic and evidence-based rather than purely theoretical.

The United States, Germany and Singapore were selected for comparison on the basis of several criteria. First, these jurisdictions have developed anti-corruption enforcement practice and relatively strong institutional mechanisms. Second, their criminal law uses broad legal concepts, such as “anything of value,” “benefit” and “gratification,” which are important for assessing whether digital and non-material advantages may fall within the scope of bribery offences. Third, these countries represent different legal and institutional traditions: the United States reflects a common law and enforcement-oriented model, Germany represents a continental European legal approach, while Singapore demonstrates a strict preventive and institutional model of anti-corruption control.

Results

United States

The United States has a fairly strong and well-structured anti-corruption system. It is not just detailed on paper — it is also actively enforced, which, in practice, makes a real difference.

At the core of this framework are federal criminal laws that clearly prohibit bribery of public officials. One of the key provisions is 18 U.S.C. § 201. Its wording is quite broad, and that seems intentional. The law does not limit itself to money or traditional benefits.

Under this provision, liability arises when a person offers, gives, or even promises “anything of value” to a public official. What matters is the intent — there must be a corrupt purpose, namely to influence an official act. Even indirect actions fall within this rule, which closes many potential loopholes.

At the same time, the law applies equally to public officials themselves. If an official solicits, demands, or agrees to receive such a benefit under similar circumstances, criminal liability also follows. In other words, both sides of the corrupt transaction are covered.

What is particularly noteworthy, in my view, is the flexibility of the phrase “anything of value.” It allows the law to adapt to new realities, including digital forms of bribery, without constant amendments (Kohn, Kohn & Colapinto, n.d.).

The breadth of the phrase “anything of value” plays a key role in the U.S. approach. It is intentionally broad and, importantly, technologically neutral. Courts and enforcement authorities in the United States have consistently interpreted it in an expansive way. This means it covers not only physical assets, but also intangible and digital benefits.

In practice, the category includes money, cryptocurrencies, gifts, services, travel, entertainment, and even advantages that have subjective value.

This flexibility is not just theoretical. It actually allows the legal system to keep up with new forms of corruption. For instance, a bribe paid in Bitcoin is treated no differently from cash. Both are seen as “things of value” capable of influencing an official’s actions.

A similar logic can be seen in the Foreign Corrupt Practices Act (FCPA). It also uses the same broad concept and prohibits giving “anything of value” to foreign public officials in order to gain business advantages. Enforcement practice confirms that this includes digital assets. A notable example occurred in 2023, when U.S. authorities charged the founder of a cryptocurrency exchange for arranging a large-scale bribery scheme involving about $40 million in digital assets to influence foreign officials. This case clearly shows that existing law already covers cryptocurrency bribery without the need for new special norms.

Beyond classic bribery provisions, the U.S. legal system relies on additional tools. The Computer Fraud and Abuse Act criminalizes unauthorized access to protected computer systems. While not designed specifically for corruption, it becomes relevant when officials misuse digital systems for personal gain.

At the same time, general fraud statutes — especially wire fraud and honest-services fraud — extend liability to schemes carried out through electronic means. This includes email, encrypted messaging apps, and online payment systems. In practice, these provisions significantly strengthen the ability of law enforcement to address cyber-enabled corruption.

Institutionally, the system also adapts quite quickly. A good example is the creation of the National Cryptocurrency Enforcement Team within the U.S. Department of Justice in 2021. This step reflects a clear focus on crimes involving digital assets.

Enforcement practice in the U.S. is often described as aggressive — and not without reason. Authorities actively pursue cases involving cryptocurrency-based bribery, as well as related offenses such as money laundering and fraud. What is particularly important is that they have learned to trace and confiscate digital assets. Courts have already ordered the seizure of cryptocurrencies linked to corruption cases.

Interestingly, all of this has happened without major legislative reforms. The law itself did not need to change drastically. Instead, the evolution took place at the level of interpretation and enforcement (Cohen & Stempel, 2023).

Germany

Germany’s legal framework for combating corruption looks quite structured and well thought out. The Strafgesetzbuch (StGB) plays a central role here, covering both public and private sector corruption in a systematic way.

At the heart of this system is the concept of *Vorteil* — “benefit.” It may sound simple, but in reality it is interpreted very broadly. In German doctrine, a benefit means almost any advantage a person is not legally entitled to receive. This includes not only money or gifts, but also services, discounts, hospitality, and even non-material advantages. In my view, this flexibility is one of the strongest aspects of the German approach.

Importantly, this concept is technologically neutral. Even though the law does not explicitly mention cryptocurrencies or digital assets, they clearly fall within the notion of a “benefit.” For example, if a public official receives Bitcoin in exchange for a decision, it is treated the same way as a cash bribe. This reflects a practical understanding: the form of value does not matter — its effect does.

The key anti-corruption provisions are found in § 331–335 StGB, which deal with bribery in the public sector, and § 299 StGB, which covers commercial bribery. These rules apply to both sides of corruption — the one who gives and the one who receives.

In practice, such cases are often combined with related offenses like fraud or money laundering.

Another interesting point is how German law connects corruption with cybercrime. Certain provisions, such as § 202a StGB (unauthorized access to data) and § 303a StGB (data manipulation), can be used alongside bribery charges. This creates a kind of cumulative liability. For instance, if an official manipulates an electronic procurement system, they may be liable not only for bribery but also for interference with data. This combined approach seems quite effective.

At the same time, not everything works perfectly. The rapid growth of digital technologies has exposed some gaps. A notable example comes from a recent court decision in 2025. The court found that cryptocurrency does not qualify as “property” (Sache) under traditional theft provisions because it lacks a physical form. As a result, the unlawful taking of digital assets did not meet the legal definition of theft, and the defendant was acquitted.

This case is quite revealing. It shows that while anti-corruption rules are flexible enough, other parts of criminal law may lag behind. There is a certain tension between traditional legal concepts and modern digital realities. This is not a failure of the system, but rather a sign that the law needs to evolve further.

Despite these challenges, Germany remains a country with a high level of integrity in public administration. According to Transparency International, it consistently ranks well in global corruption perception indices. Enforcement is carried out mainly by public prosecutors (Staatsanwaltschaften), who handle both domestic and international cases.

In the digital sphere, German authorities increasingly rely on international cooperation, especially within the European Union. Access to electronic evidence often depends on cross-border mechanisms, which are becoming more important every year. At the same time, there is a growing focus on digital forensics and specialized training.

Overall, the German model feels balanced. It combines broad legal concepts with practical enforcement tools. The idea of *Vorteil* allows the system to adapt to new forms of bribery, including digital ones. At the same time, ongoing debates about cryptocurrency and property law show that adaptation is still in progress (Atkins, 2025).

Singapore

Singapore’s anti-corruption system is often described as one of the strictest in the world. In addition, this reputation is well deserved. The legal framework is clear, and enforcement is consistently tough. The core statute here is the Prevention of Corruption Act (PCA), which works together with provisions of the Penal Code.

What is interesting is the terminology. Unlike many other jurisdictions, Singapore does not focus on the word “bribery.” Instead, it uses the concept of *gratification*. At first glance, it may seem like just a different label, but in reality, it carries a broader meaning.

The notion of gratification is intentionally wide. It covers not only money or obvious financial benefits, but also gifts, loans, rewards, and valuable securities. Beyond that, it includes services, favors, promises — basically any advantage given to a person. This open-ended wording is not accidental. It is designed to prevent loopholes.

From a doctrinal point of view, this approach feels quite modern. The concept is flexible and, importantly, technologically neutral. Even though the law does not explicitly mention digital assets, they clearly fall within its scope. For example, a transfer of cryptocurrency or access to a digital service can qualify as gratification if it is linked to corrupt intent.

In my view, this is one of the strengths of the Singaporean model. The law does not try to list every possible form of benefit. Instead, it relies on a broad concept that can adapt to new realities. As a result, digital forms of corruption — which are becoming more common

— do not escape criminal liability simply because they look different from traditional bribes.

Overall, Singapore's framework shows how a well-designed legal concept can remain effective even as technology evolves (DLA Piper, 2022).

The concept of *gratification* in Singaporean law is intentionally broad — and this is not just a formal feature. In practice, it means that almost any advantage can fall within the scope of anti-corruption rules. It is not limited to direct payments. Indirect or non-monetary benefits are equally relevant. For instance, a paid vacation, exclusive event tickets, or preferential services may all qualify as unlawful if they are linked to corrupt intent. This approach, in my view, is quite practical: it minimizes grey areas that often exist in other legal systems.

Naturally, this logic extends to digital forms of value. A transfer of cryptocurrency or even a high-value NFT is treated in the same way as a cash payment. The specific form is not decisive — what matters is the benefit itself. The same applies to granting access to premium digital services, restricted databases, or paid platforms. If such access is provided to influence an official's conduct, it can constitute gratification. This position is reinforced by the Singapore Penal Code, particularly Section 165, which prohibits public officials from receiving "anything of value" in connection with their duties without lawful justification.

At the same time, Singapore does not treat corruption in isolation. The legal framework operates in an integrated manner. There is no separate offense formally labeled "digital corruption," but related conduct — such as manipulation of electronic records or unauthorized access to systems — is prosecuted under the Computer Misuse Act and relevant provisions of the Penal Code. These offenses can be combined with charges under the Prevention of Corruption Act, which results in a fairly comprehensive response.

Another important strength is the legal recognition of digital assets. Courts in Singapore have confirmed that cryptocurrencies can be frozen, seized, and confiscated. This is critical — without such recognition, enforcement would be significantly weaker. In addition, the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act provides robust mechanisms for recovering illicit gains, regardless of whether they take the form of traditional money or digital assets. Again, the focus is on the benefit, not its form.

In terms of enforcement, Singapore is often seen as a benchmark. The Corrupt Practices Investigation Bureau (CPIB) plays a central role and operates with a high degree of independence. Cases are handled efficiently, and conviction rates remain consistently high. This contributes to Singapore's reputation as one of the least corrupt jurisdictions globally.

What is also noteworthy is the preventive dimension. Digital governance tools — such as e-procurement systems and online public services — reduce direct interaction between officials and citizens. This, quite simply, lowers opportunities for corruption. At the same time, authorities actively rely on digital forensics to trace communications and financial flows, including those involving cryptocurrencies.

A particularly strong feature is the evidentiary presumption under the PCA. Where a public official receives gratification, it is presumed to have been received corruptly unless proven otherwise. This significantly simplifies the burden of proof and increases prosecutorial effectiveness, especially in complex cases involving indirect or technologically mediated transfers.

Overall, Singapore's model appears coherent and well-balanced. Broad legal definitions, strong institutions, and the effective use of technology work together. In my view, this combination largely explains why the system remains resilient, even as corruption becomes more sophisticated and increasingly digital (Thuraisingam, 2023).

This, combined with the broad definition of *gratification*, creates a strong deterrent effect. It sends a clear signal that almost any improper benefit can trigger liability, regardless of how it is delivered.

At the same time, Singapore's recognition that even non-traditional forms of value may be corrupt has made the system particularly adaptable. Whether it is cryptocurrency, digital services, or other modern forms of exchange, such benefits are treated no differently from traditional payments. This allows authorities to deal with new schemes without constantly changing the law.

In summary, the experience of Singapore shows that clear and flexible legal definitions, combined with a specialized and effective enforcement body, are essential for addressing corruption in the digital era.

Uzbekistan

Legal Framework in Uzbekistan

Uzbekistan's criminal law addresses corruption through a set of specific provisions in the Criminal Code, supported by framework legislation. The Criminal Code of the Republic of Uzbekistan (1994, as amended) contains the core norms on bribery and related offenses.

Article 210 establishes liability for taking a bribe. It defines this offence as the knowing and unlawful acceptance by an official of material valuables, either directly or through an intermediary, or the obtaining of a pecuniary benefit in exchange for performing or refraining from performing actions within the scope of official duties.

The corresponding provision is Article 211, which criminalizes giving a bribe. Article 212, in turn, covers bribe intermediation, that is, the conduct of persons who facilitate, arrange, or transfer bribes between the parties.

Corruption in the private sector is also covered. Article 213 addresses so-called commercial bribery, namely the unlawful remuneration of employees of organizations for the misuse of their position. Article 214 deals with the extortion of such remuneration.

Taken together, these provisions form the core framework of criminal liability for corruption-related offences in Uzbekistan.

A key issue here is how the law defines the object of a bribe. Uzbek legislation refers to "tangible valuables" and "pecuniary benefit." This clearly covers traditional forms — cash, property, expensive gifts. It may also extend to digital assets like cryptocurrency, since they can be converted into money and thus represent economic value. In that sense, the wording is not entirely narrow.

However, compared to some foreign jurisdictions, the approach is still more conservative. The law does not explicitly mention intangible, non-monetary advantages. International standards, such as those reflected in the United Nations Convention against Corruption, use a broader concept of "undue advantage," which can include non-material benefits. Uzbek law is gradually moving in this direction, but the shift is not yet complete.

In practice, if corruption involves digital elements — for example, misuse of a government information system — liability may arise under other provisions, such as abuse of authority (Articles 205–209).

At the same time, Uzbekistan has developed a broader regulatory framework. The Law of the Republic of Uzbekistan On Combating Corruption establishes general principles and preventive measures. It does not introduce new crimes, but it plays an important coordinating role in anti-corruption policy.

There are also developments in the regulation of digital assets. Cryptocurrency-related activities are subject to strict control, and unauthorized operations can lead to liability. This indirectly supports the idea that crypto-assets may be treated as objects of bribery, even though the Criminal Code does not explicitly mention them.

Finally, cybercrime provisions also come into play. Offenses such as illegal access to computer information or interference with digital systems can be prosecuted alongside corruption charges. For example, if an official manipulates an electronic procurement system or deletes digital evidence, both corruption and cybercrime norms may apply.

Overall, the Uzbek framework is functional but still evolving. It covers classical corruption quite well, but the digital dimension is only partially integrated. Further development — especially clearer recognition of intangible and digital benefits — would make the system more consistent with modern realities.

Recent international developments support this broader understanding. Updated guidance from global bodies such as the United Nations Office on Drugs and Crime highlights the growing interconnection between cybercrime and corruption. In this view, technical methods—such as hacking or bypassing digital systems—are increasingly used as mechanisms for illicit enrichment, blurring the line between traditionally separate categories of crime (OECD, 2020).

In Uzbekistan, digital corruption typically appears in five main forms.

The first is traditional bribery carried out through digital channels, including crypto-assets and encrypted transactions within decentralized financial systems.

The second involves the manipulation of government decision-making platforms, such as e-procurement systems or subsidy registries, where outcomes can be quietly adjusted in favor of specific actors.

The third form is the abuse of privileged access. In these cases, officials or technical staff use their control over databases—whether cadastral, tax, or educational—to alter information for personal benefit.

The fourth pattern includes the use of malicious software to enable the embezzlement of public funds, often in ways that are difficult to trace.

The fifth, and perhaps most concerning, is the targeting of accountability mechanisms themselves. This includes deleting audit logs, altering metadata, or otherwise interfering with digital records in order to conceal wrongdoing (Yugai, 2025).

Enforcement Practices in Uzbekistan

In recent years, Uzbekistan has clearly stepped up its anti-corruption efforts, including the digital dimension. One of the key institutional changes was the creation of the Anti-Corruption Agency of the Republic of Uzbekistan in 2020. This body coordinates national policy and, in practice, plays a central role in shaping enforcement priorities.

At the same time, the state has started to actively use digital tools. A good example is the online platform *e-anticor.uz*, which allows citizens to report corruption cases directly. This kind of digital whistleblowing mechanism is quite important. It lowers barriers for reporting and, in my view, gradually builds a culture of accountability.

Enforcement statistics also suggest that the system is not passive. Each year, hundreds of officials are prosecuted for corruption-related offenses. This indicates that the legal framework is being applied in practice, not just formally.

Another noticeable trend is the focus on capacity building. In 2023–2024, initiatives were announced at the highest level to address cyber-related corruption, which was openly described as more complex and harder to detect. Starting from 2025, specialized training programs have been introduced in law enforcement academies. These include areas such as combating crime in digital technologies and legal support for cybersecurity. This is a logical step — without trained specialists, even the best laws remain ineffective.

There is also growing attention to international cooperation. Digital corruption, especially when it involves cryptocurrencies, often crosses borders. Uzbek authorities increasingly recognize the need to work with foreign partners, including crypto exchanges, and to use tools like blockchain analytics to trace transactions. This reflects a gradual shift toward more modern investigative methods.

At the same time, certain challenges remain. One of them is the legal definition of a bribe. Current legislation focuses on tangible valuables and pecuniary benefits, which may not always clearly cover intangible advantages — for example, access to data or non-material favors. This creates some uncertainty in legal qualification.

In practice, the concept of “digital corruption” is still developing. Most cases so far involve traditional corruption schemes, even if they are facilitated by digital tools such as messaging apps or online platforms. Fully digital schemes — for example, those based entirely on cryptocurrencies or digital assets — are still relatively rare in enforcement practice.

Overall, Uzbekistan is moving in the right direction. There is visible progress in institutions, tools, and training. However, further refinement of legal definitions and continued investment in technical expertise will be essential to effectively address corruption in an increasingly digital environment (World Governments Summit, 2026).

Discussion

Comparison of Best Practices Across Jurisdictions

A clear pattern emerges from the comparison. The most effective systems rely on flexible legal definitions. In the United States, Germany, and Singapore, anti-corruption laws use broad terms such as “anything of value,” “benefit,” or “gratification.” These concepts are not tied to cash or physical property. Because of that, they easily cover modern forms of bribery — including cryptocurrency transfers, digital assets, or even non-material advantages.

This is, in many ways, a key lesson. Laws that are too narrow quickly become outdated. By contrast, broader wording allows the legal system to adapt without constant amendments. In the case of Uzbekistan, current legislation already covers digital assets as pecuniary benefits. However, it would be more effective to explicitly include both material and non-material advantages. This would remove any doubt in practice — for example, whether access to valuable data or a crypto-token can qualify as a bribe.

Another important practice is institutional design. Strong enforcement bodies make a real difference. Singapore’s Corrupt Practices Investigation Bureau is a good example of a specialized and independent institution. In the United States, there is no single agency, but entities like the Department of Justice and the Securities and Exchange Commission operate dedicated units for corruption and financial crimes. Germany relies on general prosecution bodies but strengthens them through training and coordination. Uzbekistan has followed this path by establishing the Anti-Corruption Agency of the Republic of Uzbekistan. The next step, in my view, is to deepen technical expertise — especially in digital forensics and financial analysis.

Digital Government and Prevention

Digitalization plays a dual role. It can create new corruption risks, but it also provides tools to reduce them. Singapore shows how e-government systems can limit opportunities for bribery. When procedures are automated and transparent, there is simply less room for informal arrangements. Uzbekistan is moving in the same direction by expanding digital public services and centralized service platforms.

At the same time, digital systems must be protected. As more processes move online, risks such as data manipulation or interference with electronic procurement increase. This means that strong IT controls, audit mechanisms, and clear liability rules are essential. Some countries, including Germany, already combine corruption offenses with cybercrime provisions. Uzbekistan can further develop this approach by ensuring that digital manipulation linked to corruption is consistently prosecuted.

Implications and Recommendations for Uzbekistan

From a legal perspective, targeted reforms would be useful. One step would be to expand the definition of a bribe to clearly include intangible and digital benefits. This would align national law with international standards and eliminate interpretative uncertainty. It may also be worth considering more specific provisions addressing the misuse of digital systems or data for personal gain.

Enforcement capacity is equally important. Continued investment in training for investigators, prosecutors, and judges is essential, particularly in areas such as digital evidence and blockchain analysis. Establishing specialized units or laboratories focused on digital investigations could significantly improve effectiveness. At the same time, international cooperation should be strengthened. Digital corruption often involves cross-border elements, so collaboration with global networks and foreign partners is crucial.

On the preventive side, further development of e-governance should continue, but with built-in safeguards. Transparency tools, secure authentication systems, and data analytics can all help detect suspicious patterns. Public awareness also matters — citizens should be able to recognize and report new forms of corruption, including those involving digital payments.

A broader issue is balancing innovation with control. Digital finance and new technologies bring economic benefits, but they also create risks. Uzbekistan is already taking a cautious approach by regulating cryptocurrency activities. Going forward, it would be important to integrate these rules with anti-corruption and anti-money laundering frameworks. Measures such as asset disclosure requirements for officials, including digital assets, could also strengthen transparency.

In the context of Uzbekistan, this comparative experience should be directly linked to Articles 210–214 of the Criminal Code, which regulate taking a bribe, giving a bribe, mediation in bribery, commercial bribery and unlawful receipt of remuneration. These provisions form the core of national criminal liability for corruption, but their wording is still mainly based on “material valuables” and “pecuniary benefit”. Such an approach works well for traditional forms of bribery, yet it may create difficulties when the unlawful advantage has a digital or non-material form. For this reason, the most suitable direction for Uzbekistan would be to preserve the existing structure of Articles 210–214, but to modernize their terminology in line with the broader concept of “undue advantage” used in the United Nations Convention against Corruption. This would allow the law to cover not only money and property, but also digital assets, access to valuable data, digital services, privileges and other non-material benefits capable of influencing the conduct of an official or another relevant person.

Conclusion

Digital corruption is a complex and evolving phenomenon. It crosses borders and relies on rapidly changing technologies. At the same time, the comparative analysis shows that existing legal systems can respond effectively — provided they are flexible and supported by strong enforcement.

The experience of leading jurisdictions demonstrates that broad legal definitions, combined with modern investigative tools and institutional capacity, remain effective even in the digital era. Uzbekistan has already made meaningful progress by strengthening its legal and institutional framework and recognizing cyber-related corruption as a growing challenge.

To build on these achievements, further steps are needed. These include refining legal definitions, investing in digital expertise, and expanding preventive mechanisms. Adopting best practices — such as technologically neutral legal concepts, specialized enforcement capacity, and digital transparency tools — would significantly enhance the country's ability to combat corruption.

Ultimately, these efforts are not only about enforcement. They are also about trust. A system that can effectively respond to modern corruption risks strengthens confidence in public institutions and reinforces the principles of transparency, integrity, and the rule of law in a rapidly digitalizing world.

In April 2026, the Legislative Chamber of the Oliy Majlis passed a bill that formally classified 19 types of acts as corruption-related crimes. This decision has resolved a long-standing legal ambiguity where technical manipulations within databases could be interpreted as either disciplinary misconduct or ordinary regulatory violations. Now, this clear classification provides a legal foundation for the courts and investigative bodies (Government of Uzbekistan, 2024).

Digital evidence presents unique challenges: it is highly volatile, can be easily altered, and is often stored across multiple cloud environments.

Current analysis shows that Uzbekistan's legal and judicial systems are still adapting to international standards such as ISO/IEC 27037, which govern the identification, collection, and preservation of digital evidence. This transition is ongoing, and several practical challenges remain (The Tashkent Times, 2025):

Data Integrity: How can it be proven that log files extracted from the public procurement system were not altered by an administrator after the investigation began? (Gazeta.uz, 2026).

Metadata as the Key: It is often metadata (access time, IP address, device type) that establishes a link between an official and a corrupt transaction within a system that they were not formally authorized to access.

Proportionality of Collection: Maintaining a balance between the necessity of full data seizure for forensics and the right to privacy, especially in light of the implementation of the Law on Personal Data Protection (Kun.uz, 2026).

In 2026, Uzbekistan plans to establish a joint unit to combat digital corruption, comprising forensic specialists, financial analysts, and prosecutors, which should improve the quality of evidence collection in high-tech cases.

The 2025–2026 reforms in anti-corruption legislation have a direct economic dimension. The creation of a transparent digital environment and the strengthening of liability for manipulations within it are considered an "economic necessity."

Uzbekistan has significantly improved its position in open data rankings (reaching 11th in the world and 1st in Central Asia by 2025), which sends a powerful signal to foreign investors. The implementation of the "Business Charter of Uzbekistan against Corruption" and the issuance of "compliance marks" to companies that have implemented internal anti-corruption control systems are contributing to the formation of a clean business environment (UNODC, 2026).

However, the 2025 Corruption Perceptions Index (CPI) showed a one-point decrease (to 31 points), which dropped the country to 124th place. This indicates that while digital monitoring tools are identifying more violations, the judicial system and civil society institutions are not yet fully coping with the pressure from "old elites" who resist transparency. The professor's legal opinion emphasizes that without ensuring judicial independence and protecting investigative journalists who expose corruption, digital reforms may remain mere "technical facades" (LCG Discovery, 2026).

Digital corruption is a complex and rapidly evolving phenomenon that combines elements of bribery, cybercrime, money laundering and abuse of official authority. The comparative analysis shows that the most effective legal systems use broad and technologically neutral concepts, such as “anything of value,” “benefit,” “gratification” and “undue advantage.” In this regard, Uzbekistan should preserve the existing structure of Articles 210–214 of the Criminal Code, but modernize their terminology by clearly extending the object of a bribe to digital assets, access to information systems, digital services, privileges and other non-material advantages capable of influencing the conduct of an official or another relevant person.

At the same time, legal reform should be supported by practical enforcement mechanisms. It is advisable to include digital assets in the system of asset declarations for public officials, introduce clear procedures for collecting and preserving digital evidence, and develop specialized forensic expertise for cases involving cryptocurrency, e-government platforms and electronic databases. Strengthening cooperation with foreign law enforcement bodies, financial intelligence units, crypto exchanges and international organizations is also necessary, since digital corruption often has a cross-border nature. These measures would help Uzbekistan adapt its anti-corruption framework to modern digital risks while maintaining legal continuity and institutional stability. Corruption casts a long shadow over Uzbekistan’s socio-political landscape, hindering economic growth and social harmony. To confront this formidable challenge, Uzbekistan seeks to draw upon extensive experience harnessing New Emerging Technologies (NET) and the Unified Payments Interface (UPI), for effective anti-corruption measures. (Thommandru & Maratovich, 2024).

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SCIENTIFIC-THEORETICAL ISSUES OF ELECTRONIC EVIDENCE IN INVESTIGATING CYBERBULLYING CRIMES

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Abstract. *This article analyzes the scientific and theoretical aspects of electronic evidence in the investigation of cyberbullying crimes. It covers the concept of cyberbullying, its manifestations in the modern digital environment, and the role of electronic evidence in identifying and proving this type of crime. It also examines the specific characteristics of electronic evidence, problems that arise in the process of collecting, storing, and evaluating it. During the study, the main types of electronic evidence encountered in cyberbullying-related crimes are identified and their importance in the investigation process is justified. Practical problems that arise when working with electronic evidence are analyzed and the theoretical foundations for their elimination are highlighted. The results of this study serve to further understand the role and importance of electronic evidence in the effective investigation of cyberbullying crimes.*

Keywords: *cyberbullying, electronic evidence, digital forensics, investigative process, social media, IP address, metadata, log files, cybercrime, evidence evaluation*

Introduction

In the current era of globalization and the rapid development of digital technologies, almost all spheres of social life are closely connected with the Internet and information and communication technologies. Digital technologies, the World Wide Web, and the artificial intelligence network are developing rapidly. These factors, which are contributing to the growth of social life to a new level, are creating broad opportunities. At the same time, these processes are causing the growth of new forms of offenses, in particular, crimes committed in virtual space. One of such crimes is cyberbullying, which manifests itself in the form of humiliation, intimidation, defamation, or psychological pressure on a person using information technologies.

A unique aspect of cyberbullying crimes is that they are often committed through anonymous user accounts, the offender and the victim may be located in different countries, and there is a high probability that the information related to the crime will be deleted or changed in a short time. These factors make it exceptionally difficult to identify the offender and prove their guilt. Consequently, electronic evidence, such as social media correspondence, private messages, IP addresses, metadata, and audiovisual files, becomes the primary tool for investigating and proving cyberbullying crimes. Therefore, an effective solution to the problem of cyberbullying is directly linked to the ability to identify, preserve, and assess electronic evidence. Before examining this issue in greater detail or defining the scientific framework of the investigation, it is necessary to first define the term 'cyber':

Cyber is a term that refers to any technological tool or phenomenon related to computers, networks, and digital data. It is used in all areas related to the digital world and is closely related to processes that occur in virtual environments (Bandler, 2024).

Cyberbullying is the intentional, repeated, and negative behavior towards a person through digital information and communication media, such as threatening, insulting, defaming, or damaging their reputation. It occurs in technological tools – social networks, messengers, mobile applications, and online platforms. Also, its main essence is to expose the victim to negative consequences in terms of mental health, self-awareness, and social relationships. It is worth noting that the phenomenon of cyberbullying is characterized by its own negative characteristics, and unlike traditional bullying, it leaves a digital mark and occurs in the global information space (Bodova, 2025).

The Resolution of the President of the Republic of Uzbekistan "On measures to protect the rights of consumers of digital products (services) and strengthen the fight against crimes committed using digital technologies" also stipulates the organization of scientific and research activities to combat crime in the field of digital technologies. This resolution also indicates the relevance of the issue covered in the article.

According to UNICEF, cyberbullying is a set of behaviors that are intended to repeatedly harm, intimidate, or embarrass others through social media, instant messaging, or other online environments. Such behaviors include spreading misinformation, sending threatening or abusive messages, disclosing personal information, or damaging the victim's online reputation (UNICEF, 2025).

Cyberbullying crimes are mainly committed through social networks, messengers and other digital platforms. The peculiarity of these crimes is that they are often committed secretly, through anonymous accounts, and the process of identifying and corroborating evidence is more complicated than in traditional crimes. Therefore, electronic evidence is of great importance as a primary means of proof in the investigation of cyberbullying crimes.

According to the Ministry of Internal Affairs and the Center for Cybersecurity, the number of crimes committed in cyberspace has increased fourfold in the last 3 years. The saddest thing is that about 65-70 percent of victims of cyberbullying are minors and young people. Global research by UNICEF confirms this, showing that one in three Internet users has been subjected to cyberbullying.

These figures prove that cyberbullying is not just a moral issue, but a serious criminal and legal phenomenon that threatens the mental health and safety of society and requires a fundamental reform of investigative methodology.

Today, the problem of cyberbullying is relevant not only as a socio-psychological, but also as a legal issue. Such actions committed in the digital space are associated with violations of human rights and freedoms, and the role of electronic evidence in the process of their identification, proof and legal assessment is of particular importance. Therefore, the scientific analysis of the concept of cyberbullying, its characteristics and legal aspects is one of the important tasks of modern legal research.

However, an analysis of current scientific sources and investigative practice shows that the issues of collecting, storing, authenticating and using electronic evidence in the investigation of cyberbullying crimes have not been sufficiently developed. In particular, some issues related to ensuring the integrity of electronic evidence, confirming its authenticity, and obtaining information stored on foreign platforms create certain difficulties in legislation and practice. This situation creates the need for in-depth research into the scientific and theoretical foundations of electronic evidence and identifying and eliminating existing gaps in this area.

This article analyzes the scientific and theoretical issues of electronic evidence in the investigation of cyberbullying crimes, its types, specific features, and importance in investigative practice. It also highlights the main problems that arise when working with electronic evidence and theoretical approaches to their elimination.

Methods

The electronic evidence system used in the investigation of cyberbullying crimes was chosen as the object of the study. The choice of this object is explained by the fact that cyberbullying crimes are committed directly in the digital environment and the traces of the crime are manifested in electronic form. From a legal point of view, electronic evidence is a source of information that embodies information about the crime, the identity of the offender and his actions and is important for solving a criminal case. In cases of cyberbullying, correspondence, electronic messages, audio and video files, IP addresses, log files and other digital data are the main sources of evidence.

The method of scientific and legal analysis was used to study the role of electronic evidence in the investigation of cyberbullying crimes, the concept of electronic evidence, its characteristics, and the scientific views of foreign and national scientists. With the help of this method, the role of electronic evidence as the main means of proof in cyberbullying crimes was determined, and the existence of certain theoretical and practical problems related to the storage and procedural strengthening of electronic evidence was identified.

As a result of the comparative analysis, it was found that in some foreign countries there are special procedural mechanisms for storing and authenticating electronic evidence, and in national legislation some aspects of these issues need to be further improved. In particular, the norms of national legislation were analyzed in comparison with the experience of foreign countries. In this process, only the objects that have common aspects were selected, that is, the procedures for collecting, storing and evaluating electronic evidence were compared. For example, the differences between the procedure for recognizing digital correspondence (messengers, social networks) as evidence in some countries and national practice were studied. In this way, existing problems in the procedural strengthening of electronic evidence and ways to overcome them were identified.

The structural elements of cyberbullying crimes and the specific characteristics of electronic evidence were studied separately. In particular, the main forms of cyberbullying (sending offensive messages, threats, spreading false information) were analyzed separately, and the types of electronic evidence (chat correspondence, audio-video files, IP addresses, log files) that arise in each case were studied using the analysis method. It was also analyzed how the characteristics of electronic evidence, such as its volatility, rapid disappearance or modification, affect the investigation process. For example, the issues of restoring or reinforcing an offensive post on a social network if it is deleted were considered separately.

The data obtained as a result of the analysis were summarized using the synthesis method and holistic scientific conclusions were formed. In particular, various elements related to cyberbullying crimes and working with electronic evidence were considered in their interrelation and their role as a single system was justified. Using this method, the sequential stages of working with electronic evidence were systematized and the importance of rapid identification and preservation of evidence in the investigation of cyberbullying crimes was justified. For example, in cases of cyberbullying, the stages of rapid identification of evidence (taking screenshots, storing server logs), their procedural formalization and presentation as reliable evidence in court were considered as a single system.

"Electronic evidence is not stored for as long as traditional evidence, and is subject to modification, data formats becoming obsolete or disappearing over time, and the system in which the evidence is stored may fail." These specific characteristics of electronic evidence were analyzed.

Also, during the research process, modern scientific sources on cyberbullying and electronic evidence were studied through the method of scientific literature analysis. This method served to strengthen the theoretical foundations of the study.

Results

When analyzing cyberbullying crimes, the focus is often on the direct victims, as they are seen as the individuals directly affected by the online attack. This approach is important for identifying the crime, assessing its negative consequences and developing appropriate measures. Cyberbullying has several characteristics that differ from traditional crimes: digital devices, virtual traces, social network profiles and online connections play an important role in its perpetration. For example, in traditional crimes, evidence found at the scene of the crime can be crucial in identifying the suspect; however, in cyberbullying, the perpetrator is identified through the device on which the crime was committed, its IP address, the time of the crime and other metadata. Electronic traces are also used to shed light on the context and mechanism of the crime. These aspects complicate the processes of collecting electronic evidence and its admissibility as reliable evidence in court. However, at the same time, they allow proving the commission of a crime and identifying the device on which the crime was committed.

When investigating cyberbullying crimes, it is important to pay special attention to the victim. It is precisely by studying the victim's condition that it becomes possible to identify the crime in a timely manner, assess the extent of the harm caused to him, and analyze the full context of the incident.

At the same time, it is also necessary to identify and quickly analyze how cyberbullying spreads through social networks and other information systems. This will help increase the effectiveness of the investigation process.

Such an approach requires not only the detection of crime, but also the introduction of detection, corrective and preventive control mechanisms aimed at ensuring safety. The main goal of these measures is to reduce the harm caused by cyberbullying, strengthen the legal and psychological protection of victims, and prevent the recurrence of such crimes in the future.

Forensic science and digital forensics play a key role in implementing this approach, as these areas enable the identification of electronic evidence, its integrity and reliability, and its reasonable and credible presentation in court.

Digital traces, including IP addresses, metadata, chat logs, and timestamps, are essential in solving crimes. They can help identify the perpetrator, reconstruct the sequence of events, and assess the consequences of a crime.

In this regard, the role of electronic evidence is crucial in the legal assessment and investigation of modern types of crimes such as cyberbullying (Sobirova, 2025).

The Law of the Republic of Uzbekistan “On Cybersecurity” establishes legal mechanisms for combating cybercrime, protecting information systems and resources, and detecting cybersecurity incidents. Article 16 of the Law also stipulates that cybersecurity entities must notify the authorized state body about cybersecurity incidents and cybercrimes that have occurred, prevent the loss of digital traces, and ensure the permanent storage of information necessary for the investigation. This norm constitutes the legal basis for the process of storing, recovering, and analyzing electronic evidence in the investigation of crimes related to cyberbullying. In addition, Article 22 of the Law states that the investigation of cybersecurity incidents shall be carried out by an authorized state body, which indicates the need to use special technical and forensic methods in exposing cybercrimes.

The conducted analyses showed that with the increase in the number of cybercrimes, the importance of electronic evidence is also increasing. In the majority of crimes committed in the digital environment, evidentiary information is available in electronic form, and their timely identification and storage is one of the main conditions for exposing the crime. The main feature of these crimes committed in virtual space is that they are carried out directly through information and communication technologies, and the traces of the crime are also formed in the digital environment. Therefore, electronic evidence is the main source of evidence in identifying, proving and holding the guilty person accountable for cyberbullying crimes.

The study identified the most common electronic evidence in cyberbullying investigations. In particular, social media and messenger conversations, audio and video recordings, screenshots, technical information about user accounts, IP addresses, log files, and metadata were identified as important sources of information confirming the fact of cyberbullying. This evidence allows us to determine the time, method, and duration of the crime, as well as the psychological harm inflicted on the victim.

The results also clearly demonstrated the unique characteristics of electronic evidence. In particular, electronic evidence is a category of evidence that is volatile and prone to loss. For example, electronic evidence can be destroyed by deleting correspondence, closing accounts, editing data, or hiding virtual traces. Therefore, speed in identifying and procedurally strengthening electronic evidence in the investigation process is of paramount importance.

Overall, the results of the study showed that the role of electronic evidence in the investigation of cyberbullying crimes is important not only as a means of proof, but also as a source of information that fully reveals the mechanism of the crime. Proper identification, preservation and evaluation of electronic evidence is one of the key factors ensuring the effectiveness and fair completion of the investigation.

Discussion

In the context of the increasing importance of electronic evidence in the investigation of cyberbullying crimes, it is urgent to strengthen the scientific and theoretical foundations for their proper use. Without the development of clear legal mechanisms and effective methodological approaches to working with electronic evidence, it will be difficult to increase the effectiveness of the fight against cyberbullying crimes.

At the same time, cyberbullying crimes have specific features that distinguish them from traditional crimes. Such crimes are characterized by the fact that they are committed through information technologies, computer systems and the Internet. Technical and software tools are used to commit crimes, and the object of the crime is mainly information security, privacy and human dignity. Cyberbullying crimes are committed remotely and often anonymously. These crimes are distinguished by their national and transnational nature.

Cyberbullying crimes are committed using technological devices. These crimes are often aimed at humiliating a person, humiliating them in front of society and people. They can choose lonely, psychologically vulnerable people as their prey. In particular, this type of crime can be targeted not at technical systems, but at the human psyche, that is, at the actions, confessions and weaknesses of users. Therefore, relying only on technical solutions in the fight against cyberbullying crimes is not enough. In this regard, a comprehensive approach is needed that takes into account the human factor, the social environment and the culture of information security.

Many scholars have emphasized the need for substantial research to fully understand the complexities of cyberbullying on social media. Oksanen et al. discussed cyberbullying within workplace organizations and closed groups on social media and noted that young professionals in closed groups on social media reported high levels of cyberbullying victimization, with 17% of Finnish workers reporting victimization, and that victims in closed groups on social media reported high levels of psychological stress, burnout, and technostress (Oksanen et al., 2020).

Most studies examining the prevalence of cyberbullying have focused on high school-aged students. In addition, sociodemographic factors, particularly race, as well as the individual's life course, have been less studied than age and gender in the relationship between cyberbullying victimization and perpetration. This suggests that additional research is needed in this area (Kowalski, 2018).

A study by Abaido et al. examined the prevalence of cyberbullying among university students in an Arab community and their attitudes towards reporting it. The survey found that 91% of respondents confirmed that cyberbullying occurs on social media, with Instagram (55.5%) and Facebook (38%) being the most common platforms. Furthermore, the authors found that reporting cyberbullying incidents is a significant problem due to social and cultural constraints (Abaido, 2020).

Factors influencing the occurrence of cyberbullying on social media among university students were studied. In particular, the prevalence of cyberbullying is a serious problem on social media platforms, which has a long-term psychological impact on individuals. In the digital environment, people perform various social roles, which affects their subsequent communication. As a result, their behavior can become tied to certain restrictions and habits. For the study conducted among university students, only the Instagram platform was selected, while other social networks (e.g., Telegram, Facebook, TikTok, etc.) were not included in the scope of the study. In conclusion, cyberbullying is a serious social problem characterized by anonymity, prevalence, and continuous continuation. Cyberbullying occurs through intimidation, harassment, and the dissemination of harmful information through social networks. In order to prevent it and help victims, it is important to understand how this phenomenon occurs (Mtshali & Khubisa, 2019).

Explaining cybercrimes solely through the technological tools used to commit them is not a sufficient and sustainable approach. On the one hand, digital technologies are developing rapidly, and on the other hand, the human factors that give rise to such crimes – motives, psychological state and social environment – are becoming increasingly complex.

Also, the distinction between crimes committed using digital means and crimes that occur exclusively in the Internet and virtual environments is not always clear. Therefore, explaining cybercrimes solely in terms of technical means does not fully reveal their true nature (McGuire, 2019) .

The principle of protective jurisdiction means that even if the perpetrator of a crime is in the territory of another state, if he commits a crime against the citizens of a given state or its essential interests, that state has the right to consider, investigate and prosecute the crime.

In cybercrime, if the harm is caused to the citizens or national interests of a state, the crime can be considered within the jurisdiction of that state, regardless of where it was committed. In particular, in some situations, several states simultaneously consider themselves competent for the crime. As a result, disagreements or conflicts between jurisdictions may arise over which state should handle the case.

The principle of universal jurisdiction applies to serious crimes that threaten all of humanity. Every state has the right to try these crimes, regardless of where they were committed or the nationality of the perpetrator (Rajabov, 2024).

The current Criminal Code does not provide a direct legal definition of concepts such as “cyberbullying,” “cyberstalking” or “insulting using digital technologies”. Investigative bodies are forced to qualify cyberbullying acts under Article 139 (Defamation) or Article 140 (Insult) of the Criminal Code. However, the aggravating factor “in the mass media or on the Internet” in these articles does not fully cover all the destructive features of cyberbullying (for example, group clinging, creation of fake content using artificial intelligence – deepfake).

The Criminal Procedure Code does not sufficiently interpret the concept of “Electronic evidence”, the specific procedures for its identification, seizure, examination and storage. There is no unified investigative practice in the procedural formalization of correspondence, screenshots and disappearing messages in messengers (Telegram, Instagram, etc.), which are the main evidence in cyberbullying. There are cases where screenshots are often rejected by courts as evidence that is “illegally obtained or can be easily altered.”

Table

Years	To the list taken general cybercrimes number	On the Internet insult, slander and harassment (Cyberbullying)	Share of minors and youth (%)	Digital evidence forgery/no to do cases
2021	2 214	432	48%	89
2022	4 332	812	53%	142
2023	8 110	1,654	59%	310
2024	12,450	2,890	64%	512
2025	16,200	4 120	68%	745

The statistics show that from 2021 to 2025, the number of total cybercrimes increased by 7.3 times, and cases of direct cyberbullying (insults, defamation, violation of privacy on the Internet) increased by almost 9.5 times. This indicator confirms that cyberbullying is becoming the most dangerous socio-legal problem with a high level of latency (concealment) in society.

Also, the share of minors and young people among the victims of cyberbullying is increasing every year (from 48% in 2021 to 68% in 2025). The main reason for this is the younger generation’s active presence in the digital space and on social networks (Telegram, Instagram, TikTok) and their lack of awareness of cyber-hygiene rules.

One of the most dangerous trends for investigative practice is the sharp increase in cases of “falsification or deletion of digital evidence” (from 89 in 2021 to 745 in 2025).

Cyberbullying perpetrators are rapidly destroying electronic evidence using modern anonymizing tools (VPN, proxy), disappearing messages, and fake accounts. This scientifically and practically proves the need to introduce mechanisms for rapid fixation (sealing) of electronic evidence in criminal procedural legislation without delay.

In the investigation process, procedural deadlines are violated when collecting electronic evidence. Ensuring security when storing electronic evidence is important. In particular, information contained in electronic evidence may be lost or corrupted. There may be delays in identifying it. This leads to a decrease in efficiency. As a result, the need to strengthen cooperation between operational-search activities and investigative actions is evident.

International experience in working with electronic evidence in the investigation of cyberbullying crimes shows that in developed countries, the collection, storage and analysis of this type of evidence is carried out on the basis of strict standards. In particular, in international practice, maintaining the integrity and reliability of electronic evidence is recognized as a fundamental principle in the process of working with it (U.S. Department of Justice, 2024).

For example, the internationally accepted ISO/IEC 27037 standard clearly regulates the processes for identifying, collecting, retrieving, and preserving electronic evidence, and establishes a mandatory requirement for maintaining a "chain of custody" (Luthfi, 2024). This is important for ensuring the admissibility of evidence in court.

In addition, international experience distinguishes three main sources of electronic evidence: data stored on devices, data publicly available on the Internet, and data stored by service providers.[4] In particular, mutual legal assistance mechanisms are used between states to obtain the latter type of data, which is an important tool in investigating cybercrime at a transnational level.

At the same time, guidelines and recommendations developed by international organizations emphasize the need for careful assessment of the reliability of electronic evidence when using it in court. Since electronic evidence can be easily altered or destroyed, enhanced procedural control over it is required (Dmitrieva & Pastukhov, 2023).

Although the current legislation of the Republic of Uzbekistan does not distinguish the concept of "electronic evidence" into a separate legal category, in practice and in some regulatory documents there are concepts close to it – for example, expressions such as "electronic document," "electronic information carriers," "information resources."

The concept of "electronic evidence" is mainly determined on the basis of theoretical approaches. According to M.V. Gorelov, electronic evidence is information about circumstances of importance in the case, reflected in digital, audio or video form. It also includes minutes of court hearings and minutes of procedural actions executed using electronic computing devices (Gorelov, 2005).

The specific characteristics of electronic evidence can be summarized as follows:

- Electronic evidence is not stored for as long as traditional evidence, and it is subject to changes, data formats becoming obsolete or lost over time, and the system in which the evidence is stored may fail.
- There is no level of protection for electronic evidence, it can be damaged by viruses, malware, and cybercriminals can break into the system.
- Electronic evidence always leaves a trace. Many electronic activities (e.g. logins, network traffic, chats) are recorded in log files.

Despite its intangible nature, electronic evidence always leaves some digital footprint. Even if criminals use information technology to commit crimes, take measures to hide their identity, protect their personal data, or anonymize their activities, their actions do not remain completely untraceable. Because any digital activity is carried out through information systems, servers, network devices, and software, and in these processes, traces are created in the form of technical logs, metadata, IP addresses, time stamps, and other digital data.

In the practice of forensic science and forensic examination, these digital traces are identified as electronic evidence, analyzed and formalized in the appropriate procedural order. With the help of special technical means and expert methods, it is possible to identify hidden or encrypted data, recover deleted files, and determine the time, method, and person of the crime. Therefore, although the concealment measures taken by criminals may make the identification of electronic evidence difficult, they do not make it completely impossible.

Electronic evidence can also be divided into 3 types based on the form in which it appears. For example:

1. Evidence resulting from human factors (installed programs, additional programs, logins and passwords when entering the site, search history);
2. Evidence generated by the device. This type of evidence can include images (jpg, gif), videos (mp4, MOV), audio (mp3, MID), and office (Docx, PPT);
3. Evidence arising from cybercrime.

Electronic evidence can come in many forms, and it is important to understand the types when presenting a case in court. The most common types of electronic evidence are:

Email correspondence can be important and valuable evidence in legal proceedings because it contains important information about the relationship between the parties, the content of the communication, and specific circumstances. Lawyers can use emails as a means of confirming the existence of communication between the parties or as a means of proving a particular opinion, agreement, or legal position.

Text messages are similar in content to emails, they are generally shorter and less formal in expression. However, such messages can be valuable as evidence in court proceedings where intentions, agreements, or important matters are discussed between individuals via text communication.

Social media platforms like Facebook, Twitter, and Instagram are increasingly being used as evidence in court cases. Lawyers can use posts to prove a person’s mental state, location, or other relevant information.

Digital files, such as documents, images, videos, and audio recordings, can be admitted as evidence in court proceedings. They can be used to support arguments, provide context, and prove specific points. It is important to note that electronic evidence must meet specific requirements to be admissible in court. The investigator must ensure that the evidence is authentic, relevant, and reliable. They must also be careful to maintain the integrity of the electronic evidence so that it cannot be challenged or rejected in court (Jaiswal, n.d.).

Foreign scholars have classified electronic evidence into types and forms. There are different views on the classification of electronic evidence into types and forms.

1. File-based evidence includes Word, Excel, PDF documents, images, videos, and audio files. They can be existing on a computer or mobile device, created or modified by the user.

According to American expert Casey: “File-based evidence usually preserves traces of crime without hiding them, but technical means are required to detect them” (Casey, 2011).

2. Metadata is technical information about files such as creation date, author, last edited, and storage location. It can often be more important than the main evidence.

According to American expert and researcher Pollitt, “Metadata is crucial in verifying the reliability and consistency of electronic evidence” (Pollitt, 2008).

3. System and log files are logs automatically created by the operating system, web server, router, or applications. They clearly show the time of user activity or an event.

4. Emails and messages (e-mails, messages) – messages on email servers, correspondence in messengers, text messages – are considered important as means of communication used in the commission of a crime.

5. Evidence on mobile devices – SMS, GPS location data, call history, camera recordings, and activities on mobile apps fall into this group.

According to American academic and journalist Garfinkel, “Mobile devices embody a wealth of evidence related to personal life, so analyzing them requires ethical and legal caution” (Garfinkel, 2010).

6. Evidence in the cloud – documents, photos, and recordings stored in services like Google Drive, OneDrive, and iCloud. Retrieving them often requires international cooperation (SWGDE, 2022).

There are several forms of electronic evidence, including:

1. Static electronic evidence is information that exists in an unchanged state and is not in contact with an active network at the time of its acquisition. (Documents on a USB flash drive, files on a CD/DVD, undeleted documents on a hard drive)

According to Casey, “Static data exists primarily on stationary devices and is best studied using classical forensic methods” (Casey, 2011).

2. Live /Volatile electronic evidence is data that exists while the system is running. It is usually in random access memory (RAM), network traffic, or open sessions and is temporary in nature. (Program processes in RAM, files transferred in real time over the Internet, system session logs).

According to US scientist Simson Garfinkel, the biggest problem with working with volatile electronic evidence is that such data can be instantly lost as a result of a minor system failure or power outage, making it extremely difficult to identify and preserve (Garfinkel, 2010).

3. Logical copy is a version of electronic evidence that is visible to the operating system but structured at the file system level. This is often done in the form of a copy of documents, photos, or emails.

As American scholar Mark M. Pollitt has noted, the use of logical copies greatly simplifies the analysis process. However, these copies may in some cases not contain important information that is hidden or previously deleted. Therefore, they should not always be considered a complete source of evidence (Pollitt, 2008).

4. Bit-level image format is a complete copy of the entire memory, including any files, including deleted, hidden, or inconsistent data. It is the most suitable format for forensic investigations.

American legal scholar Carrier argues that a full digital copy of a disc is the most reliable and legally protected form of evidence, because it is archived in an exact replica of the original media.

5. Hash-verified form is a copy of the evidence (either static or image) verified using a hash function. This is used to prove its integrity.

Investigating cyberbullying crimes is one of the most complex processes. In particular, this is due to the specific characteristics of such crimes and the use of advanced technologies in them. Although cyberbullying crimes may contain similar features to traditional crimes – for example, insults, extortion, fraud or defamation, they are fundamentally different in content and form. Therefore, the role and significance of the place where the crime was committed is important. Unfortunately, most of the existing research has not paid sufficient attention to the digital environment in which the crime was committed. However, it is in this environment that electronic evidence is formed and is the main tool for proving the crime. Electronic evidence must be reliable, accurate and in a form that meets legal requirements, since it forms the basis of court decisions and plays an important role in punishing the guilty person (Yeboah-Ofori & Brown, 2020).

Conclusion

In the modern era, as information technologies penetrate deeply into all aspects of our lives, the number and scale of cybercrimes are also increasing. This poses new challenges for law enforcement agencies, in particular, the problems of working with electronic evidence in the investigation process, its collection, evaluation, and most importantly, its reliable storage have become a pressing issue.

In conclusion, in the investigation of cyberbullying crimes, electronic evidence is emerging as an integral and decisive element of modern criminal procedure. Such offenses committed in the digital space have their own characteristics, unlike traditional evidence, and the processes of their identification, recording, storage and evaluation require a special approach. Therefore, a deep scientific and theoretical analysis of the legal nature of electronic evidence, its role in the evidentiary system and its procedural status is of great importance.

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CRYPTO-ACTIVES AS A NEW MEANS OF CORRUPTION CRIME: INTERNATIONAL AND NATIONAL CRIMINAL RESPONSIBILITY MECHANISMS

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Abstract. *This article examines the use of digital financial assets, particularly cryptocurrencies, as new instruments for committing corruption-related crimes. The research aims to analyze the legal characterization of corruption offenses involving cryptocurrencies, evidentiary challenges, and the effectiveness of national and international criminal liability mechanisms. The relevance of the study stems from the fact that pseudonymous features of blockchain technology, decentralized finance (DeFi) platforms, and privacy coins significantly complicate the identification of parties to corrupt transactions. The study employs comparative-legal, systemic-structural, formal-juridical, and statistical analysis methods. A comparative analysis of the legislation of the Republic of Uzbekistan and foreign countries was carried out. The results demonstrate that in many countries, the criminal-legal status of cryptocurrencies has not yet been fully defined, which complicates the qualification of corruption offenses. The research findings substantiate the need to improve national criminal legislation, expand blockchain forensics capabilities, and strengthen international cooperation mechanisms.*

Keywords: *cryptocurrency, corruption, blockchain, criminal liability, digital financial assets, money laundering, KYC/AML, FATF*

Introduction

As a social affliction present throughout human history, corruption has consistently exerted a detrimental impact on various spheres of society and state governance.

Today, corruption remains a severe threat not merely to individual nations but also to the international community as a whole. According to Transparency International's 2025 Corruption Perceptions Index, a substantial portion of the global population resides in countries characterized by high levels of corruption. Notably, while 31 countries have significantly reduced their corruption levels since 2012, the rest are failing to tackle the problem—they have remained stagnant or worsened during the same period. The global average has fallen to a new low of 42, while more than two-thirds of countries score below 50. Ultimately, the public pays the price, as corruption leads to under-funded hospitals, unbuilt flood defenses, and blights the hopes and dreams of young people (Corruption Perceptions Index, 2025).

However, by the third decade of the 21st century, traditional forms of corruption—such as cash bribery and illicit transfers through bank accounts—are giving way to new, technologically sophisticated methods.

The rapid advancement of digital technologies, particularly the advent of blockchain technology and crypto-assets, has fundamentally transformed the financial system. Since the execution of the first Bitcoin transactions by Satoshi Nakamoto in 2009, the crypto-asset market has experienced unprecedented growth (Lykhova et al., 2023, p. 137). Concurrently, the specific technical characteristics of crypto-assets—namely, the pseudonymity of transactions, decentralized governance systems, and near-instantaneous, low-cost cross-border payments—have rendered them an attractive instrument for corrupt purposes. In 2024, the illicit turnover of crypto-assets totaled $40.9 billion, a substantial decline from the $46.1 billion recorded in 2023. Overall, the proportion of all cryptocurrency transactions associated with illicit activity decreased from 0.61% in 2023 to 0.14% in 2024 (Crypto Crime Report. 2025).

The relevance of this topic is determined by several key factors. Firstly, in numerous countries, including the Republic of Uzbekistan, the status of crypto-assets within criminal law remains insufficiently defined, leading to significant challenges in the legal qualification of corruption-related offenses. Secondly, traditional methods of gathering evidence—such as bank records, witness testimonies, and audit reports—are proving ineffective in cases of digital corruption. Thirdly, corrupt transactions executed via crypto-assets are inherently cross-border in nature and may span multiple jurisdictions, thereby necessitating the enhancement of international cooperation mechanisms.

The specific objective of this article is as follows: to scientifically and theoretically substantiate the mechanisms by which crypto-assets are utilized as instruments in corruption offenses; to conduct a comparative analysis of criminal liability mechanisms in the Republic of Uzbekistan and foreign jurisdictions; and to formulate scientifically grounded proposals for the enhancement of national legislation.

A review of the academic literature on the subject indicates that the nexus between crypto-assets and corruption has been extensively explored by numerous international scholars in recent years. Specifically, Lykhova et al., in their analysis of emerging forms of cyber-corruption, investigated the problem of crypto-assets becoming the object of corruption offenses within the Ukrainian context (Lykhova et al., 2023.). Smirnov et al. investigated the role of legal regulation in preventing corruption within the digital financial assets market, drawing upon the example of Russian legislation (Smirnov, et al., 2023). A. Ibrahimi and B. Arifi, in turn, analyzed the relationship between crypto-assets and corruption within the context of blockchain technology (Ibrahimi, A., & Arifi, B. 2022). P. Wawrosz and J. Lánský investigated the interrelationship between crypto-assets and corruption from an economic perspective (Wawrosz, P., & Lánský, J. 2021). D. Saputra and F. Kusumah explored the issues surrounding blockchain forensics and evidence gathering in crypto-enabled corruption within developing nation (Saputra, D. H., & Kusumah, F. 2025). Furthermore, reports published by international organizations such as the FATF, the Basel Institute on Governance, and Europol have provided an in-depth analysis of the relationship between virtual assets and criminal activity.

However, existing research has not specifically examined the relationship between crypto-assets and corruption offenses within the context of the national legislation of the Republic of Uzbekistan. Furthermore, the development of practical recommendations for Uzbekistan, based on a comparative analysis of the experiences of the CIS countries and the European Union, remains insufficiently explored in the academic literature.

Methods

The comparative legal method constitutes the methodological foundation of this research. Through this method, a comparative analysis was conducted on the legislative norms pertaining to crypto-assets and corruption offenses within the Republic of Uzbekistan, the Russian Federation, the member states of the European Union, and the United States of America. The systemic-structural method facilitated the examination of the mechanism of utilizing crypto-assets in corruption offenses as a cohesive system. Within the framework of this method, the technical, legal, and institutional aspects of crypto-based corrupt transactions were analyzed in their interrelation. The formal-legal method was employed for the grammatical, logical, and systemic interpretation of the content of normative legal acts. Using this method, an analysis was performed on the concepts and categories utilized within the norms of the Criminal Code of the Republic of Uzbekistan, the Law “On Anti-Corruption,” and the Law “On Combating the Legalization of Proceeds from Criminal Activity,” as well as the relevant legislative acts of several foreign jurisdictions in this domain.

Corruption offenses committed utilizing crypto-assets have been selected as the object of this research. The subject of the research, in turn, encompasses the mechanisms of criminal liability for these offenses, the specific features of their legal regulation, and the avenues for their enhancement.

Results

An analysis of the mechanisms and trends concerning the use of crypto-assets in corruption offenses indicates that digital financial assets are being utilized for corrupt purposes through several primary methods. The first and most prevalent method is the payment of bribes and kickbacks in crypto-assets. As articulated by P. Wawrosz and J. Lánský, the traditional bribery process entails the risk of transferring cash in person, the potential use of marked banknotes, and the ease of identifying both the sender and the recipient of bank transfers (Wawrosz, P., & Lánský, J. 2021, p. 635). Conversely, crypto-assets developed through modern technologies enable participants in corrupt transactions to transfer bribe funds under conditions of high anonymity, where neither personal interaction is necessary nor is there a high risk of identification and exposure.

The second method entails the conversion of corruption proceeds into crypto-assets and the subsequent execution of money laundering processes. According to a study conducted by Europol, the European Union Agency for Law Enforcement Cooperation, money laundering operations facilitated by crypto-assets have been identified as the most prevalent form of illicit activity (Europol, 2022). Specifically, the process of money laundering via crypto-assets adheres to the traditional scheme—placement, layering, and integration—yet it exhibits distinct characteristics. Given that crypto-assets are inherently anonymous from their inception, the placement stage is frequently rendered redundant, as the creation of a new wallet is a simple, rapid, and cost-free procedure. Furthermore, the use of crypto-mixers—services that obfuscate the origin of funds by blending crypto-assets from multiple sources and distributing them into new, “clean” wallets—makes tracing the illicit funds virtually impossible.

The third method involves concealing corrupt transactions through decentralized finance (DeFi) platforms and privacy coins. In contrast to traditional centralized cryptocurrency exchanges, DeFi platforms do not mandate KYC (Know Your Customer) protocols, thereby enabling users to exchange assets, accrue interest, and transfer funds without disclosing their legal identity. These platforms are governed not by corporate entities but by smart contracts, rendering the exertion of legal influence or the enforcement of compliance virtually impossible. Furthermore, according to the United Nations Office on Drugs and Crime (UNODC), privacy coins such as Monero, Zcash, and Dash—unlike traditional crypto-assets—facilitate the complete concealment of user addresses, account balances, and the provenance of the coins from third parties (UNCTAD and UNODC, Conceptual Framework for the Statistical Measurement of Illicit Financial Flows, 2020).

The fourth method entails the conversion of corrupt funds into non-fungible tokens (NFTs), stablecoins, or wrapped tokens. Increasingly, illicit proceeds are not merely retained in the form of conventional crypto-assets, but are being converted into NFTs, stablecoins, or wrapped tokens that circulate across multiple blockchains (Kafteranis, D., et al., 2023). For instance, a corrupt official may transfer Ethereum-based tokens to the Binance Smart Chain, convert them into privacy tokens, and subsequently migrate them into a gaming platform or a virtual real estate environment. Each subsequent step further isolates the transaction from traceable evidence.

The practical application of these mechanisms can be observed in several instances. In 2022, two Chinese intelligence officers were charged with obstructing a federal investigation in the United States. They offered a bribe to a witness in the form of crypto-assets, with the objective of mitigating the risk of detection (U4 Anti-Corruption Helpdesk, 2023). In West Africa, as part of an energy infrastructure project, high-ranking officials laundered bribes from foreign entities using Bitcoin, using the relative anonymity of blockchain wallets to bypass cross-border financial controls (Verma, 2024). In an investigation into political financing in Brazil, funds through illegal charity companies were converted into crypto-assets and misappropriated only through shell corporations operating online (Tziakouris, 2018).

The four principal mechanisms identified above — the commission of corruption offences through crypto-assets, the channelling of corrupt proceeds into money laundering schemes, the concealment of transactions through DeFi platforms and privacy coins, and the transformation of funds into NFTs, stablecoins, or wrapped tokens — clearly demonstrate the extent to which corruption offences have become deeply integrated with the digital financial infrastructure today.

At the same time, practice relating to the commission of bribery offences through crypto-assets demonstrates that this mechanism is employed not only in individual cases, such as the Chinese intelligence officers’ case cited above, but also at a systemic level — particularly in the energy, construction, and public procurement sectors. In this regard, the dual nature of blockchain technology becomes apparent: on the one hand, crypto-assets, by virtue of their pseudonymity, afford corrupt actors a lower risk of detection compared to the traditional banking system; on the other hand, the transparent and immutable nature of blockchain enables law enforcement authorities to trace transaction trails and gather evidence. It is precisely this latter characteristic that brings us to the question of the use of crypto-assets as evidence in corruption offences.

The findings obtained regarding the problems of using crypto-assets as evidence in corruption offences demonstrate that traditional means of evidence gathering — witness testimony, financial documents, and audit reports — are insufficient for the effective investigation and prosecution of digital corruption cases. Blockchain technology creates a distinctive paradox in the evidence-gathering process: on the one hand, every transaction is publicly recorded and cannot be altered (immutability), while on the other hand, the identities of wallet holders are not directly linked to legal subjects. This characteristic of “pseudonymity” considerably complicates the identification of corrupt officials.

The widespread proliferation of DeFi platforms and privacy coins has further deepened the challenges inherent in the evidence-gathering process. From a scholarly and technical standpoint, representatives of the academic community explain this problem as follows: while centralized crypto-exchanges are required to verify the true identity of their users in accordance with KYC protocols, no such requirement exists on DeFi platforms (Zetzsche et al., 2020). Furthermore, owing to the development of tokenization and digital asset processes, illicit proceeds can be transferred across multiple blockchains, which complicates forensic reconstruction and necessitates multi-chain investigative capabilities.

The absence of international standards for the identification of blockchain-based evidence also constitutes a serious problem. Although the FATF has published recommendations concerning virtual assets, unified international legal norms governing the admissibility and reliability of blockchain evidence do not yet exist (Saputra & Kusumah, 2025). This situation assumes particular significance when corruption offences are of a transboundary nature — that is, when funds are channeled through exchanges and wallets located across different jurisdictions.

The analysis of the legislation of the Republic of Uzbekistan demonstrates that significant steps have been taken in the country towards regulating the relationship between crypto-assets and corruption offences; however, a number of gaps remain in this area. In presidential decrees and resolutions, as well as in the regulations of relevant bodies, crypto-assets — referred to in the Republic of Uzbekistan as “crypto-assets,” since decentralized currency units have not been accorded the status of currency — are recognized as property. In particular, pursuant to paragraph “a” of Part 3 of Resolution No. PD-3832 of the President of the Republic of Uzbekistan, dated 3 July 2018, “On Measures for the Development of the Digital Economy and the Sphere of Crypto-Asset Circulation in the Republic of Uzbekistan,” a crypto-asset is defined as “a proprietary right constituting an aggregate of digital records in a distributed data registry, possessing value and an owner” (Resolution of the President of the Republic of Uzbekistan, 2018). Furthermore, Order No. 32 of the Director of the National Agency for Prospective Projects of the Republic of Uzbekistan, dated 15 August 2022, “On the Approval of the Regulation on the Procedure for Licensing the Activities of Service Providers in the Sphere of Crypto-Asset Circulation” (registered by the Ministry of Justice of the Republic of Uzbekistan on 15 August 2022, registration number 3380) in accordance with Part 1 of Chapter 1 (General Provisions) of the Regulation approved thereby, a crypto-asset is defined as “a proprietary right constituting an aggregate of digital records in a distributed data registry, possessing value and an owner” (National Agency of Perspective Projects, 2022).

The Law “On Introducing Amendments and Additions to the Criminal Code, the Code of Criminal Procedure, and the Code of Administrative Liability of the Republic of Uzbekistan,” adopted on 19 January 2024, introduced significant amendments and additions to the Criminal Code and the Code of Administrative Liability of the Republic of Uzbekistan. Specifically, Articles 278^{8} and 278^{9}, entitled “Violation of Legislation in the Sphere of Crypto-Asset Circulation” and “Unlawful Conduct of Mining Activities,” were incorporated into the Criminal Code. According to the amendments introduced to the Criminal Code, the disposition of Article 278^{8} directly provides for “the unlawful acquisition, transfer, or exchange of crypto-assets, the conduct of activities as a service provider in the sphere of crypto-asset circulation without obtaining a license in the prescribed manner, or the conduct of operations with anonymous crypto-assets by service providers in the sphere of crypto-asset circulation." Upon closer examination of this article, three distinct objects can be identified. The first pertains to the unlawful acquisition, transfer, or exchange of crypto-assets, whereby the essence of the offence lies in the subject exercising the right of disposal over crypto-assets without lawful grounds. The second concerns the conduct of activities as a service provider in the sphere of crypto-asset circulation without obtaining a license in the prescribed manner, which refers to an individual or organization providing services relating to the exchange, storage, or transfer of crypto-assets without possessing a license issued by the competent authority. The third relates to the conduct of operations with anonymous crypto-assets by service providers in the sphere of crypto-asset circulation, which denotes a formally licensed provider itself carrying out operations through privacy coins or wallets that have not undergone identification procedures. On the basis of the foregoing analysis, it should be noted that the given article, by virtue of its constituent elements of a criminal offence — namely, the object, the subject, and the objective and subjective aspects — does not constitute a corruption offence but rather forms an independent economic offence directed at the violation of the financial-economic order in the sphere of crypto-asset circulation. This is because it lacks the fundamental characteristic of corruption — that is, the element of an official's abuse of their service authority for personal gain.

Additionally, an amendment was made to Article 5 of the Law of the Republic of Uzbekistan "On Amendments and Additions to Certain Legislative Acts of the Republic of Uzbekistan" dated April 17, 2025, stating that the thirteenth paragraph of Article 12 of the Law of the Republic of Uzbekistan dated August 26, 2004, No. 660-II "On Countering the Legalization of Proceeds from Crime, the Financing of Terrorism, and the Financing of the Proliferation of Weapons of Mass Destruction" is set forth in the wording "providers of services in the field of crypto-asset turnover."

As amended by Article 12 of the Law of the Republic of Uzbekistan of August 26, 2004, "On Countering the Legalization of Proceeds from Crime, the Financing of Terrorism, and the Financing of the Proliferation of Weapons of Mass Destruction," the list of reporting entities covers all major sectors engaged in financial intermediation, including the traditional banking and credit system, the securities market, the insurance sector, leasing services, money transfer services, pawnshops, gambling and lottery operators, dealers in precious metals and precious stones, the real estate market, and professional service providers, such as notary offices, law firms, and auditing organizations.

The term "persons carrying out activities in the field of crypto-asset circulation" mentioned in paragraph 13 of Article 12 means that the legislator puts subjects operating in the field of crypto-assets on the same level as traditional financial institutions and imposes on them the same level of financial monitoring obligations. This indicates that the legislator recognized the risks of using the crypto-asset market for money laundering and recognized the need to regulate this area. From a practical perspective, this means that crypto exchanges, crypto wallet providers, and other crypto-asset service providers now have legal obligations to identify clients, monitor transactions, and report suspicious transactions to the competent authorities.

However, this article has no direct connection to corruption crimes, as it defines not the abuse of official powers by officials, but the scope of preventive and control obligations of entities engaged in financial transactions within the system for combating money laundering.

As a member of the international community, the Republic of Uzbekistan joined the UN Convention against Corruption in 2008. Within the framework of the Convention, a number of bodies for combating corruption crimes have been established in the country. In particular, the Anti-Corruption Agency of Uzbekistan, the Prosecutor General's Office, the Ministry of Internal Affairs, the State Security Service, and the Ministry of Justice have been designated as the authorized bodies for preventing corruption. However, the mechanisms necessary for the practical implementation of the convention in the context of crypto-assets—specifically the confiscation of digital assets, the procedure for accepting blockchain evidence, and the provision of mutual legal assistance on crypto-assets in international cooperation—have not yet been fully developed.

An analysis of the experience of the Russian Federation shows that even in this country, the legal status of crypto-assets is not fully defined. Federal Law No. 259-FL dated July 31, 2020, introduced the concepts of digital financial assets and digital currency, but prohibited their use as a means of payment. The law does not define the concepts of crypto-asset, token or coin separately. In law enforcement practice, a crypto-asset is classified as a "digital currency," resulting in a paradox – the legal regulation of practical market relations based on significant capitalization is left behind. Courts are making contradictory decisions: some recognize crypto-assets as property, while others deny it. The Prosecutor General's Office of the Russian Federation and the Federal Financial Monitoring Service have expressed the opinion that virtual assets or digital currencies should be equated to property, which will allow them to be recognized as objects of crimes, including money laundering and financing of terrorism. Cases of giving and receiving bribes using crypto-assets have been recorded in Russia, but the qualification of such crimes within the framework of current legislation creates complexities (Cheshko, 2019).

The most significant regulatory framework in the European Union regarding crypto-assets is the Markets in Crypto-Assets Regulation (MiCA), which entered into force in 2024. MiCA defines crypto-assets as "a digital representation of a value or right that can be transmitted and stored electronically using distributed ledger technology or similar technology." (Hrebeniuk & Lukianchuk, 2017). The MiCA covers transparency, data disclosure, and transaction controls. The regulation applies to individuals and legal entities in the European Union engaged in the issuance, public offering and offering for trading of crypto-assets or the provision of crypto-related services. In addition to MiCA, Directive 2018/843 of the European Parliament and of the Council of Europe (EU) of 2018 was adopted to prevent the use of the financial system for money laundering or terrorist financing, expanding the fight against crime in the crypto-asset market (Directive 2018/843, 2018).

In the United States, efforts to combat corruption involving crypto-assets are managed through various federal laws and agencies. In the US, FinCEN (Financial Crimes Enforcement Network) is responsible for investigating financial crimes and overseeing the requirements of the Bank Secrecy Act (BSA). Under the BSA, banks, financial institutions, and even crypto-asset wallets must create effective anti-money laundering programs. (Kohn, 2023). The U.S. Department of Justice has successfully investigated a number of major criminal cases involving crypto-assets. In January 2023, Anatoly Legkodimov, the owner of the Hong Kong-based Bitzlato crypto exchange, was arrested on charges of laundering hundreds of millions of dollars for criminals (U4 Anti-Corruption Helpdesk, 2023). In 2013, Liberty Reserve, a Costa Rica-based company, and seven of its employees were charged with operating a money laundering and unlicensed money transfer business — the company transferred over $6 billion US dollars through more than

55 million illegal transactions in an anonymous and untraceable manner (US Department of Justice, 2016).

The AML Whistleblower Improvement Act, passed in the United States in 2021-2022, expanded the system of rewards to individuals who expose corruption and money laundering crimes to the crypto-asset sector. According to this law, in cases where the Ministry of Finance or the Ministry of Justice imposes a sanction exceeding 1 million US dollars, the person who provides information is paid a mandatory reward in the amount of 10 to 30 percent of the sanction amount (Kohn, 2023). This mechanism applies to crypto-asset wallets and exchanges, as well as to all entities operating without noticing large and suspicious depositors.

According to the updated FATF report for 2025, while jurisdictions have made some progress in implementing the standards for virtual assets and virtual asset service providers (VASP) (Recommendation 15), significant shortcomings remain (FATF, 2025). Risk assessment and the effective application of a risk-based approach are still challenging for many jurisdictions. Although more and more countries are defining ways to regulate the VASP (Virtual Asset Service Providers) sector, there are significant gaps. Practical progress in licensing and registration is significant, but mitigating the risks of offshore VASPs remains a challenging task for jurisdictions.

Discussion

Analysis of the criminal-legal qualification of crypto-assets in corruption crimes shows that the main problem lies in determining the legal nature of crypto-assets. In different jurisdictions, crypto-assets are named and classified differently: “digital currency” in Argentina, “virtual goods” in Canada and China, “crypto-token” in Germany, “payment token” in Switzerland, “cybercurrency” in Italy and Lebanon, “virtual asset” in Mexico, and “electronic currency” in Colombia (Ibrahimi & Arifi, 2022). This terminological diversity poses not only a theoretical but also a practical problem, as a precise definition of the subject is a necessary condition for qualification in criminal law.

Although the designation of crypto-assets as “crypto-assets” in the context of Uzbekistan has created certain legal clarity, their status in criminal law—particularly in the context of corruption crimes—has not yet been fully established. The articles of the current Criminal Code on corruption (Articles 205-214) mainly provide for traditional forms of bribery, abuse of power and embezzlement. No special qualifying features have been established for cases of receiving or giving bribes in the form of crypto-assets, or converting funds obtained as a result of a corruption crime into crypto-assets.

In the practice of the Russian Federation, crypto-assets are categorized as “digital currencies,” but their status as property is not clearly defined. As a result, conflicting decisions appeared in judicial practice (Smirnov et al., 2023). This situation also leads to problems in the qualification of corruption crimes, as to establish liability for bribery, it is necessary to clearly define the subject of the bribe—something of property value. If a crypto-asset is not recognized as property, it cannot be the subject of bribery, which may serve as grounds for concluding that the crime has no elements.

The U.S. experience demonstrates a different approach. In the United States, crypto-assets are classified differently by several federal agencies—as property by the IRS and as currency by FinCEN—but in the investigation of corruption crimes; this problem has been practically resolved. The U.S. Department of Justice can link pseudonymous wallet activities to real-world individuals or entities using tools, risk assessment software, and wallet attribution services from blockchain analytics companies such as Chainalysis, TRM Labs, and Merkle Science (Saputra & Kusumah, 2025). Once verified with KYC documents, blockchain evidence will be included in indictments and accepted in federal courts. The US also has the authority to issue summonses for centralized crypto exchanges and data storage providers, which significantly simplifies the investigation process.

The experience of Estonia deserves special attention. Estonia has implemented blockchain technology as a key component of its e-governance model. The use of blockchain in key areas such as healthcare, land management, court records, and government audits has created technical capabilities and institutional trust (Semenzin et al., 2022). This systematic approach has normalized the use of blockchain evidence in judicial proceedings and reduced resistance in legal and procedural contexts.

It is appropriate to discuss the possibilities and limits of forensic examination through blockchain technologies. Modern blockchain analytics tools – Chainalysis, Elliptic, CipherTrace – allow for tracking transaction flows, identifying suspicious wallets, and tracing funds that have passed through crypto-mixers. However, these tools have several limitations. First, the analytics of privacy coins (Monero, Zcash) are significantly more complex. Secondly, multi-chain transactions carried out through DeFi platforms and bridge protocols complicate forensic reconstruction. Third, for the results of blockchain analytics to be accepted as evidence, the participation and explanation of forensic experts are necessary (Saputra & Kusumah, 2025). These problems are especially relevant for developing countries, including Uzbekistan, as it is a matter of personnel and technical infrastructure specializing in blockchain forensics in these countries.

Several important aspects stand out regarding crypto-assets and international anti-corruption cooperation mechanisms. First, the exchange of blockchain evidence is not regulated within the framework of agreements on mutual legal assistance (MLAT). Bilateral and multilateral agreements between many countries provide for the traditional exchange of evidence, but specific protocols for exchanging information on crypto-asset transactions, wallet data, and blockchain analytics results have not been developed. Although Article 46 of the UNCAC Convention establishes mechanisms for providing mutual legal assistance, the practical implementation of these mechanisms in the context of digital assets faces difficulties.

Secondly, the principle of “dual criminality” is a serious obstacle to international cooperation. Some countries have not recognized crypto-assets as objects of a crime, so requests for legal assistance from countries such as Indonesia may be rejected (Raden Ferdiandra & Defry Yusdanial, 2025). Thirdly, AML/KYC standards in different countries differ significantly, which complicates the cross-border exchange of financial data. Although FATF standards are accepted as a global norm, their practical implementation differs significantly depending on the jurisdiction.

Lykhova et al. highlighted the problem of the criminal-legal qualification of crypto-assets as objects of corruption crimes and justified the need to recognize them as the subject of a crime (Lykhova et al., 2023) — the results of our study also confirm this conclusion.

Smirnov et al. (Smirnov et al., 2023) pointed out the importance of KYC and AML mechanisms in the digital financial asset market – our analysis confirms the need to strengthen these mechanisms in the context of Uzbekistan as well. Yemelianov et al. investigated the potential of blockchain technology to reduce corruption risks in the public procurement system - our research confirms that blockchain can be viewed not only as a problem but also as a solution Yemelianov et al., (2023).

Several problems were identified during the study. The first is a methodological problem: there is no clear statistics on corruption crimes committed through crypto-assets, as such crimes are not accounted for separately in many countries. The second is a legal problem: there is no international consensus on determining the legal nature of crypto-assets, which limits the accuracy of the comparative analysis. The third is a practical problem: access to and use of blockchain forensics tools varies significantly by country, further widening the gap between developing and developed nations.

At the same time, the situation identified during the study shows that blockchain technology itself can also serve as a tool for combating corruption. Several studies have shown that the use of blockchain technology in public procurement, voting systems, land cadastre, and financial auditing can significantly reduce corruption risks (Sarker al., 2021; Yemelianov et al., 2023; Parenti et al., 2022). The e-governance experience of Estonia, the land cadastre system of Georgia, and the public procurement platform of Brazil are clear examples of this (Benitez-Martínez et al., 2023).

Conclusion

Based on the results of the conducted research, the following conclusions and proposals can be formulated.

First, crypto-assets have become a new, technologically sophisticated tool for corruption crimes. The pseudonymous nature of blockchain technology, decentralized financial platforms, crypto-mixers, and privacy coins significantly complicate the identification of participants in corrupt transactions and the collection of evidence against them.

Secondly, in many countries, the status of crypto-assets in criminal law is not fully defined. The inclusion of special articles on the turnover of crypto-assets in the Criminal Code of the Republic of Uzbekistan is a positive step. However, the current legislation does not provide for the use of crypto-assets as a means in corruption crimes as a separate qualifying feature. Therefore, it is advisable to improve the articles of the Criminal Code of the Republic of Uzbekistan on corruption and define corruption crimes committed using crypto-assets or other digital assets as a separate qualifying feature. In particular, in the disposition of Article 210 of the Criminal Code of the Republic of Uzbekistan, the subject of a bribe is expressed through the concepts of “material values” and “property interest.” However, the legal nature of crypto-assets does not fully correspond to the traditional concept of tangible assets - they do not have a physical form, in some cases, their qualification as property is debatable, and their value is variable in nature. Therefore, in practice, when a bribe is transferred to an official in the form of Bitcoin, Ethereum, USDT, or another crypto-asset, a qualification problem may arise – it is possible that the defense will claim that the subject of the bribe is not a “material asset.” Therefore, it is advisable to add the phrase “including crypto-assets and other digital assets” to the disposition of Articles 210 and 211.

Thirdly, it is necessary to include mechanisms for preventing corruption operations involving crypto-assets and digital financial assets in the Law of the Republic of Uzbekistan “On Combating Corruption.”

Fourth, it is necessary to ensure the full implementation of FATF recommendations, in particular, to strengthen the system of licensing and registration of VASPs, to take measures to reduce the risks associated with offshore VASPs. It is also necessary to improve the mechanisms for data exchange between the National Agency for Perspective Projects and law enforcement agencies. It is necessary to introduce professional development programs in blockchain technology, crypto-assets, and digital forensics for judicial and law enforcement officers. The FATF (2025), Basel Institute on Governance (2022), and Europol (2022) reports also emphasize the need for training in this field.

In conclusion, crypto-assets are a new tool for corruption in the digital age, and a comprehensive application of legal, institutional, and technological approaches is necessary to combat crimes committed using them. The Republic of Uzbekistan has taken important initial steps in this field – special articles on crypto-assets have been included in the Criminal Code, and a licensing system has been introduced. However, a broader and deeper reform is needed to address the problem of using crypto-assets as a tool in corruption crimes. This reform should include not only improving national legislation but also strengthening international cooperation, expanding blockchain forensics capabilities, and enhancing human resource capacity.

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THE SYSTEM OF INTERNATIONAL LEGAL INSTRUMENTS FOR ENSURING THE HUMAN RIGHT TO A HEALTHY ENVIRONMENT

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Abstract. *This article presents a comprehensive analysis of the system of universal international legal instruments designed to ensure the human right to a healthy environment. The study examines both foundational United Nations human rights documents that have received environmental interpretation through the practice of treaty bodies, and specialized multilateral environmental conventions. Particular attention is devoted to climate agreements, conventions on biodiversity, transboundary environmental impact, and hazardous substances. The article traces the evolution of approaches from the indirect protection of environmental rights through classical human rights norms towards the explicit recognition of the nexus between human rights and the environment in the 2015 Paris Agreement. The research encompasses the role of regional human rights courts in developing environmental jurisprudence, as well as mechanisms for implementing international obligations at the domestic level. A systematic approach to the application of diverse international instruments is emphasized as essential for achieving comprehensive protection of environmental rights. The study concludes that, despite the absence of a single universal treaty explicitly enshrining the right to a healthy environment, a multi-layered system of international agreements has emerged that ensures the holistic protection of this right through the integration of international environmental and human rights law norms. The findings contribute to the theoretical foundations of international environmental law and human rights scholarship.*

Keywords: *Framework Convention on Climate Change, Paris Agreement, Convention on Biological Diversity, Basel Convention, Stockholm Convention, Minamata Convention, Vienna Convention on the Ozone Layer, Montreal Protocol, environmental interpretation of rights, human right to a healthy environment*

Introduction

The system of universal international legal instruments for ensuring the human right to a healthy environment has developed gradually over several decades. It encompasses both specialized multilateral environmental agreements and general human rights instruments that have been accorded an environmental interpretation through the progressive jurisprudence of treaty bodies and international courts. The need for a systematic analysis of this normative framework is underscored by the increasing urgency of the global ecological crisis and its direct implications for the realization of fundamental human rights.

The present article aims to examine the structure and normative content of the international legal framework for the protection of the human right to a healthy environment. The central problem is the absence of a single, universally binding treaty explicitly enshrining this right, which necessitates reliance upon a dispersed array of instruments. The article seeks to assess the extent to which the existing system provides coherent and effective protection, and to identify the principal mechanisms through which this protection is achieved.

Scholarly discourse on the relationship between human rights and environmental protection has developed considerably since the 1970s. Churchill (1996) offered an early systematic account of environmental rights within existing human rights treaties, noting that treaty bodies had begun to recognize certain rights as susceptible to impairment by environmental degradation (Churchill, 1996). This observation was confirmed at the international judicial level when Vice-President Weeramantry, in his dissenting opinion in the Gabčíkovo-Nagymaros Project case, stated that environmental protection is an indispensable prerequisite for the enjoyment of numerous human rights, including the right to life and the right to health (ICJ, 1997).

Subsequent scholarship has elaborated upon these foundations. Horn (2023) demonstrated that the Human Rights Committee increasingly employs evolutionary interpretation of the International Covenant on Civil and Political Rights (ICCPR) to address contemporary environmental challenges. Boyd (2019) analyzed the significance of the explicit reference to human rights obligations in the preamble to the Paris Agreement, characterizing it as a landmark development that integrates a rights-based approach into climate governance. Boyle (2023) advocated for a systemic approach to the interpretation and application of multiple international instruments, arguing that only such an approach can ensure the comprehensive protection of environmental human rights.

Methods

This article employs a doctrinal legal research methodology, drawing upon primary sources of international law, including treaties, conventions, protocols, and declarations, as well as secondary sources comprising academic monographs, journal articles, and the general comments and decisions of United Nations treaty bodies. The study is grounded in comparative legal analysis of universal and regional instruments, tracing the normative evolution of environmental human rights protection across different categories of international legal instruments.

The principal methods employed include: systematic legal analysis, through which the interaction of different categories of international instruments is examined; historical-legal method, applied to trace the evolution of environmental human rights norms from the 1948 Universal Declaration to the present day; comparative method, used to assess the approaches of different treaty regimes to environmental protection; and teleological interpretation, applied to determine the object and purpose of treaty provisions in light of their environmental implications. The study is confined to universal-level instruments, with references to regional jurisprudence where relevant to illustrate broader trends.

Results

Although the Universal Declaration of Human Rights (1948) does not expressly enumerate environmental rights, its provisions have been accorded an environmental interpretation by subsequent treaty bodies. The Human Rights Committee, in Portillo Cáceres v. Paraguay, established that environmental degradation may adversely affect the effective enjoyment of the right to life under Article 6 of the ICCPR (Human Rights Committee, 2019).

The International Covenant on Civil and Political Rights (1966) similarly lacks specific environmental provisions; however, its norms have been actively employed in the protection of environmental rights through expansive interpretation. Horn (2023) observes that the practice of the Human Rights Committee demonstrates an evolutionary approach to the Covenant in light of contemporary environmental challenges.

The International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966) maintains a more direct connection to environmental concerns. Article 12, which enshrines the right to health, includes among the steps to be taken by States parties the improvement of all aspects of environmental hygiene. The Committee on Economic, Social and Cultural Rights, in General Comment No. 14, clarified that this right encompasses access to safe drinking water and adequate sanitation facilities (CESCR, 2000).

The United Nations Framework Convention on Climate Change (UNFCCC, 1992) constitutes the primary international instrument in the field of climate governance. Although the Convention does not contain direct references to human rights, its implementation is closely linked to the realization of environmental rights. Fayziev (2022) underscores that climate change represents one of the principal threats to the realization of the right to a healthy environment in the twenty-first century.

The Paris Agreement (2015) advances the UNFCCC regime and, for the first time in a universal climate treaty, acknowledges in its preamble that States, when taking action to address climate change, should respect, promote and consider their respective obligations on human rights. Boyd (2019) argues that the inclusion of this reference opens new avenues for integrating a rights-based approach into climate policy.

The Kyoto Protocol (1997) required developed States to reduce their greenhouse gas emissions by 2012, introducing a distinction between developed and developing countries and imposing binding quantitative obligations upon the former. By contrast, the Paris Agreement leaves it to each State to determine its nationally determined contributions, without prescribing specific emission targets, while preserving the principle of common but differentiated responsibilities.

The Convention on Biological Diversity (CBD, 1992) establishes a comprehensive regime for the conservation and sustainable use of biological diversity. Article 8(j) recognizes the importance of the traditional knowledge of indigenous peoples, which is intrinsically linked to their rights to a traditional way of life and to a healthy environment. States parties are also obliged, under Article 3, to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States (CBD, 1992). Anderson (2021) emphasizes that biodiversity conservation is inseparably connected to the rights of indigenous peoples and local communities.

The Ramsar Convention on Wetlands of International Importance (1971) was among the first global environmental conventions. While it does not contain explicit human rights provisions, its implementation contributes to the realization of the right to water and to a healthy environment.

The Vienna Convention for the Protection of the Ozone Layer (1985) and the Montreal Protocol on Substances that Deplete the Ozone Layer (1987) are directed towards the protection of human health and the environment from the adverse effects of human activities that modify or may modify the ozone layer, principally through scientific research and observation (Article 2, Vienna Convention). The Montreal Protocol further obliges States parties to control the calculated levels of production and consumption of specified ozone-depleting substances (Article 2, Montreal Protocol), employing precise technical categories that are subject to periodic review.

The Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention, 1991) requires that a party intending to undertake an activity likely to cause a significant adverse transboundary impact must assess the environmental effects of that activity, defined to include impacts on human health and safety, flora, fauna, soil, air, water, climate, landscape, historical monuments, and the interaction among these factors, as well as effects on cultural heritage and socio-economic conditions resulting from changes in those factors (Article 1, Espoo Convention).

The Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention, 1998) is of particular significance, as ensuring public access to reliable environmental information constitutes an essential element of the protection of fundamental human rights.

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989) is aimed at protecting human health and the environment from the adverse effects of hazardous wastes. Islamov (2022) notes that the improper management of hazardous wastes constitutes a direct threat to the right to health and to a healthy environment (Islamov, 2022).

The Stockholm Convention on Persistent Organic Pollutants (2001) is directed towards the protection of human health and the environment from persistent organic pollutants. The preamble of the Convention acknowledges that these substances possess toxic properties and represent a threat to human health.

The Minamata Convention on Mercury (2013) was adopted in response to the global threat posed by mercury to human health and the environment. Rustambaev (2021) highlights the significance of this instrument as an illustration of the evolution of international environmental law towards a preventive approach to the protection of human health (Rustambaev, 2021).

Discussion

The effectiveness of universal international legal instruments is substantially contingent upon their coordinated application. Boyle (2023) emphasizes the necessity of a systemic approach to the interpretation and application of multiple international instruments in order to ensure comprehensive protection of environmental human rights (Boyle, 2023). The analysis conducted in this study confirms that the existing framework, while fragmented, exhibits a degree of internal coherence through cross-referencing, the progressive jurisprudence of treaty bodies, and the principle of systemic integration in international law.

Despite significant normative progress, several structural challenges persist. The absence of a universal treaty directly enshrining the right to a healthy environment creates gaps in protection, particularly for communities most vulnerable to environmental harm. The fragmentation of the international legal order with obligations distributed across numerous sectoral regimes complicates enforcement and accountability. Moreover, the tension between the sovereign right of States to exploit their natural resources and their international environmental obligations remains unresolved, notwithstanding the articulation of the principle of common but differentiated responsibilities.

The study reveals a clear evolutionary trajectory: from the purely indirect protection of environmental interests through classical human rights norms in the ICCPR and ICESCR, through the development of specialized environmental conventions addressing specific threats, to the explicit integration of human rights considerations into the Paris Agreement. This progression reflects a growing recognition, in both treaty practice and scholarly literature, that environmental protection and human rights are fundamentally interdependent.

The approach adopted by the Aarhus Convention — linking environmental protection to procedural rights of access to information, participation, and justice — represents a particularly innovative model, offering enforcement mechanisms through individual access rather than State-to-State dispute settlement. This procedural dimension complements the substantive protections afforded by other instruments and may serve as a template for future universal instruments.

Significantly, in 2021, the UN Human Rights Council adopted Resolution 48/13, recognizing for the first time the universal human right to a clean, healthy, and sustainable environment. This resolution — and the subsequent endorsement by the UN General Assembly in 2022 — marks a watershed moment in the progressive development of this right at the universal level, and should be read as a consolidating instrument that draws together the various strands of the normative framework analyzed in this study (UN Human Rights Council, 2021; UN General Assembly, 2022).

Conclusion

The analysis conducted in this article supports the following conclusions and recommendations:

First, notwithstanding the absence of a single universal treaty explicitly enshrining the right to a healthy environment, a multi-layered system of international agreements has emerged that provides comprehensive protection of this right. This system encompasses conventions on climate change, biodiversity, hazardous substances, and transboundary environmental impact, as well as the environmental reinterpretation of classical human rights instruments through the practice of UN treaty bodies.

Second, the environmental interpretation of the ICCPR and ICESCR by treaty bodies, particularly the recognition of the inseparable link between environmental degradation and violations of the right to life, health, and an adequate standard of living, constitutes an important mechanism for filling the normative gaps of the existing framework.

Third, the Paris Agreement's preambular recognition of the obligation to respect human rights in climate action, and the 2021 UN Human Rights Council resolution recognizing the right to a clean, healthy, and sustainable environment, represent significant milestones in the formalization of this right at the universal level.

Fourth, there is an evident need to develop a universal binding instrument explicitly enshrining the human right to a healthy environment, which would consolidate the existing fragmented regime and provide a unified accountability mechanism. In the absence of such an instrument, States, international organizations, and civil society actors should be encouraged to adopt a systemic approach to the coordinated application of existing international instruments.

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PROSPECTS OF INTERNATIONAL COOPERATION OF THE REPUBLIC OF UZBEKISTAN IN COMBATING CYBERCRIME AGAINST CHILDREN

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Abstract. *This article examines the organizational and legal mechanisms for strengthening international cooperation in combating cybercrimes committed against children. The research focuses on the interaction between Uzbekistan's national legal framework and international standards on children's rights, cybercrime, digital evidence and cross-border cooperation. The study applies normative-legal, comparative-legal, systematic and empirical methods. An expert-oriented survey of 47 respondents conducted through Google Forms in November 2025 is used to assess practical perceptions of existing legal gaps. The findings show that most respondents consider the current national framework insufficient for addressing cybercrimes against children, especially because of the lack of precise legal definitions, difficulties in collecting digital evidence, limited cooperation with foreign technology platforms and the absence of specialized procedural tools. The article argues that criminalization alone is not enough: Uzbekistan needs an integrated model combining substantive criminal law reform, a 24/7 contact point, faster preservation of electronic evidence, binding cooperation duties for technology companies and preventive measures in schools and families. The conclusions may be used in legislative drafting, law-enforcement practice and child protection policy.*

Keywords: *international cooperation, cybercrime, child rights, digital evidence, online grooming, sextortion, technology platforms*

Introduction

The digital environment has become a new space for the implementation of Child Rights. The right to use the internet extends the child's access to education, information seeking, feedback, and social interaction. At the same time, the same environment exposes the child to complex threats such as cyberbullying, sextortion, illegal collection of personal data, child-related sexual abuse materials created through artificial intelligence, and cross-border exploitation. The committee on the rights of the child's 25th general review specifically states that states should take legislative, policy and institutional measures to fully implement the convention on the rights of the child even in the digital environment (United Nations Committee on the Rights of the Child, 2021).

A unique feature of cybercrimes against children is that the perpetrator, victim, server, payment instrument, and digital footprints can be located in different jurisdictions. Therefore, such crimes are addressed not only within the framework of national criminal law, but also through international legal assistance, rapid preservation of electronic evidence, obtaining information from foreign providers, and mandatory cooperation mechanisms with international platforms. INTERPOL emphasizes the international dimension of crimes against children and notes that images of child sexual abuse on the Internet are not "virtual" but real crimes involving real children (INTERPOL, n.d.).

In the Republic of Uzbekistan, there are a number of constitutional and sectoral frameworks that ensure the safety of children in the digital environment. The new version of article 33 of the Constitution establishes the obligation to create conditions for the use of the Internet, and article 78 establishes the duty of the State to protect the rights, freedoms and legitimate interests of the child and create the necessary conditions for the full development of the child (Constitution of the Republic of Uzbekistan, 2023). Complementing these constitutional guarantees are key sectoral laws, including the Law "On Guarantees of the Rights of the Child" (LRU-139, 2008), the Law "On the Protection of Children from Information Harmful to Their Health" (LRU-444, 2017), and the Law "On the Protection of Children from All Forms of Violence" (LRU-996, 2024).

However, the main problem with the existing regulation is that it is not sufficiently adapted to active and cross-border crimes in cyberspace. Although the Law "On the Protection of Children from Information Harmful to Their Health" (LRU-444, 2017) is aimed at classifying malicious information products by age and restricting content, it does not fully regulate issues such as cybercrime, real-time exploits, blackmail committed by foreign messengers, obtaining evidence from platforms, and preserving digital traces. The Law "On the Protection of Children from All Forms of Violence" (LRU-996, 2024) strengthens interagency cooperation in the field of protection from violence, but does not define specific procedural tools specific to cyberspace as a separate system. In this regard, the scientific problem of the article is posed as follows: How can international legal and organizational mechanisms for combating cybercrimes against children be improved in Uzbekistan?

The purpose of this article is to assess international cooperation mechanisms in combating cybercrime against children, identify gaps in national legislation of the Republic of Uzbekistan, and develop practical proposals. The study employs a three-stage methodological approach: first, it analyzes the relationship between international standards and Uzbek legislation; second, it systematizes practical problems based on the results of a sociological survey; and third, it develops proposals based on the establishment of a 24/7 contact point, technology company obligations, the preservation of digital evidence, and the introduction of special crime units.

An analysis of the literature shows that in international studies, sexual exploitation on the Internet and grooming of children are studied as separate and rapidly changing phenomena. Ringenberg & others (2022) note that the advent of the Internet has increased the number of forms of grooming, allowing criminals to communicate with children through strictly online-to-online or via blended online-to-offline pathways (Ringenberg et al., 2022). Alvarez-Guerrero et al. show from a systematic review that online sexual exploitation also poses a high risk for children and adolescents with disabilities (Alvarez-Guerrero et al., 2024). UNICEF claims that materials about child sexual abuse created using artificial intelligence tools are fundamentally changing the digital risk landscape (UNICEF, 2026).

The United Nations Convention against Cybercrime was adopted by the UN General Assembly on December 24, 2024 and opened for signature on October 25, 2025, marking the transition of the global agenda to combat cybercrime to a new level (United Nations Office on Drugs and Crime, 2025). In accordance with article 35 of the Convention, it provides a rapid response mechanism in situations where electronic evidence may be quickly lost. The fact that the UN Convention on Combating Cybercrime was adopted by the UN General Assembly on December 24, 2024 and opened for signature on October 25, 2025, marks the transition of the global agenda to combat cybercrime to a new level (United Nations Office on Drugs and Crime, 2025).

Methods

The study used normative-legal, comparative-legal, systemic-structural, formal-legal and sociological methods. Using the normative legal method, the Constitution of the Republic of Uzbekistan, the Law "On Guarantees of the Rights of the Child," the Law "On the Protection of Children from Information Harmful to Their Health", the Law "On the Protection of Children from all Forms of Violence", the Criminal Code and the content of international documents were analyzed. The comparative legal method was used to compare national legal approaches with the Budapest Convention, the UN Convention against cybercrime, the Committee on the Rights of the Child's General Comment No. 25, and the WeProtect Global Alliance model.

The survey targeted legal professionals, including lawyers, prosecutors, and representatives of the judicial system and relevant authorities. The questionnaire focused on several key areas: the adequacy of current national legislation, the practical effectiveness of the Law of Republic of Uzbekistan No. LRU-996 (2024), the necessity of introducing specialized articles into the Criminal Code, mechanisms for cross-border cooperation, the responsibilities of foreign technology platforms, and the overall impact of existing preventive measures.

The survey is of an expert nature and is aimed not at a statistically representative reflection of the opinion of the whole society, but at identifying practical aspects of the problem based on the opinions of experts in the field of law enforcement, education and legal practice. In some questions, the amount of interest may exceed 100 percent because the respondent chooses more than one option. Multiple choice percentages were calculated based on the total number of respondents — 47 respondents; In some questions, the percentage amount may exceed 100 percent, since the respondent chooses more than one option.

Table 1

Survey respondent profile

Indicators	Numbers	Percentage
Number of respondents	47 people	100%
Legal practitioner	13 people	27.7%
Employee of an educational institution / pedagogical psychologist	12 people	25.5%
Student	6 people	12.8%
advocate	3 people	6.4%

Prosecutor	3 people	6.4%
Judges	2 people	4.3%
Representative of the judiciary	4 people	8.5%
Other or not specified	4 people	8.5%
1–5 years of work experience	25 people	53.2%
5–10 years of work experience	16 people	34.0%

Results

These legislative frameworks establish vital foundations for the preventive protection of children from harmful cyberspace content. Specifically, Law No. LRU-444 defines all online materials, including web content, computer games, and audiovisual products, as 'information products,' thereby establishing clear boundaries for restricted distribution. Furthermore, Law No. LRU-996 formalizes essential safeguards, such as the identification of child victims, the establishment of a dedicated hotline, and the implementation of interdepartmental cooperation measures. Despite these advancements, however, the results indicate that current legislation fails to sufficiently address complex modern challenges, such as the procedural intricacies of active cybercrimes, the demands of cross-border evidence exchange, and the necessity for rapid, mandatory cooperation from technology companies.

The survey results confirm the normative analysis. 70.2% of respondents believe that the current national legislation does not adequately regulate the fight against crimes against children in cyberspace. 25.5% of respondents expressed the opinion that the legislation is only partially sufficient. Only 4.3% of respondents assessed the existing standards as fully sufficient. This result shows that there is a high socio-professional need to improve legislation.

Table 2

Main results of the survey

Position by question	Numbers	Percentage
The current national legislation is insufficient	33	70.2%
The national legislation is partially sufficient	12	25.5%
The national legislation is fully sufficient	2	4.3%
The definition of bullying in the Law No. 996 is partially effective in covering actions in cyberspace	22	46.8%
This approach is fully effective	13	27.7%
This approach is ineffective	11	23.4%
There should definitely be separate articles in the Criminal Code	25	53.2%
I believe that there should be separate articles in the Criminal Code	18	38.3%
The law should clearly define the obligation of parents to protect children from cyber risks	40	85.1%
There are difficulties in cooperating with foreign technology platforms	42	89.4%

The questions asked on the most important issues showed that the respondents' main attention was focused on legal definitions and institutional and procedural mechanisms. 63.8% of respondents cited the lack of clear legal definitions of concepts such as cyberbullying, cybergrooming, sextortion, etc. as the main problem in legislation. 42.6% of respondents chose the absence of mechanisms for holding international platforms accountable. Opportunities for cross-border cooperation were noted in 44.7% of cases. 42.6% of respondents chose the absence of mechanisms for holding international platforms accountable.

The highest figure for special articles that should be included in the Criminal Code was recorded for cybercrime: 35 respondents, or 74.5 percent, considered it necessary to establish separate responsibility for this act. 61.7% of respondents supported responsibility for sextorting, 59.6% of respondents supported responsibility for child pornography created using artificial intelligence, and 48.9% of respondents supported responsibility for the illegal collection of children's personal data. This situation indicates the need to update criminal legislation, taking into account the modern nomenclature of cyber threats.

Table 3

Important problems and suggestions on criminal law

Tendency	Number	Percentage
Lack of clear definitions in legislation	30	63.8%
Lack of special personnel	21	44.7%
Barriers to cross-border cooperation	21	44.7%
Lack of mechanisms for collecting digital evidence	21	44.7%
Lack of accountability mechanisms for international platforms	20	42.6%
Special responsibility for cyberbullying	35	74.5%
Special responsibility for Sextortion	29	61.7%
Liability for child sexual abuse material created using artificial intelligence	28	59.6%
Liability for illegally collecting children's personal information	23	48.9%

The most sought-after offer was a 24-hour hotline on mechanisms for combating cross-border crime. 74.5% of respondents consider it important to introduce a permanent point of contact on the model of the Budapest Convention. 51.1% of respondents named the instant information exchange system, 38.3% of respondents named the mechanism for directly requesting information from foreign providers, and 31.9% of respondents named the procedure for joint investigative teams. These indicators show that the speed and safety of evidence are crucial in criminal procedural cooperation.

On the responsibility of technology companies, 61.7% of respondents supported the obligation to remove harmful content within 24 hours, 53.2% supported the obligation to respond to law enforcement within 72 hours, and 51.1% supported the obligation to open representation in Uzbekistan. These results demonstrate the need for clear, time-bound, and accountability-based procedures in the relationship between national law enforcement agencies and global digital platforms.

As for preventive measures, 70.2% of respondents rated conducting cybersecurity courses in schools as one of the most effective areas. The introduction of the "report" button on each Internet platform was supported by 59.6% of respondents, the development of a hotline and online support platforms – 57.4%, and parent education

– 38.3%. 31.9% of respondents chose strengthening international cooperation as the highest priority area for improvement, 25.5% of respondents chose increasing attention to preventive mechanisms, and 17% of respondents chose mechanisms for holding technology companies accountable.

Table 4

Priority proposals for international cooperation, platforms and prevention

Proposal	Number	Percentage
24/7 point of contact	35	74.5%
The system of rapid information exchange	24	51.1%
Direct request for information from foreign suppliers	18	38.3%
The procedure for conducting joint investigative teams	15	31.9%
Removing malicious content within 24 hours	29	61.7%
Response to law enforcement agencies within 72 hours	25	53.2%
Commitment to open a representative office in Uzbekistan	24	51.1%
Cybersecurity courses in schools	33	70.2%
“Notification” button on platforms	28	59.6%
Hotline and online support platforms	27	57.4%

Discussion

The obtained results indicate the need to form a three-level model of protecting children from crimes in cyberspace. The first level is substantive criminal law. At the same time, the National Criminal Code should clearly cover such acts as cybercrime against a child, sextortion, creation, storage, dissemination of materials about sexual abuse of children, including through the use of artificial intelligence, as well as the illegal collection of personal data of children for the purpose of exploitation. The lack of a clear definition in criminal law is also important from the point of view of the principle of legality, since the criminality of an act and its punishability are determined only by law (Criminal Code of the Republic of Uzbekistan, 1994).

The second stage is the mechanisms of procedural and international cooperation. Evidence of cybercrimes is not stored permanently and locally, as in traditional crimes. IP addresses, account information, chat conversations, cloud storage files, and transaction records can be deleted, encrypted, or moved to another jurisdiction within a short period of time. Therefore, a 24-hour point of contact, a rapid exchange of information, an immediate order to preserve evidence, and legally sound communication with foreign suppliers are of strategic importance to the national system. The 24/7 network, established in accordance with Article 35 of the Budapest Convention, was created as a response to this problem (Council of Europe, n.d.).

The UN Convention on Cybercrime also aims to strengthen international cooperation, technical assistance and capacity-building at the global level. The adoption of this convention demonstrates that the fight against cybercrime is a separate, rapidly developing area of international law. For Uzbekistan, this process is important in two directions: firstly, bringing national legislation in line with international standards; secondly, increasing the capacity of law enforcement agencies to work with foreign partners and platforms.

The third level is platforms and preventive responsibility. According to NCMEC cybertipline data for 2024, there were 20.5 million reports of alleged sexual exploitation of children in 2024, while an adjusted estimate recorded 29.2 million individual cases (National Center for Missing and Injured Children, 2025). Such a volume of information flow cannot be effectively controlled without a clear division of responsibilities between government agencies, Internet providers, social networks, messengers, schools and parents. Therefore, removing malicious content on time, responding promptly to legitimate requests from law enforcement agencies, maintaining contacts on child safety issues, and implementing user-friendly complaint mechanisms should become mandatory standards for platforms.

At the same time, the responsibility of platforms should not become a tool for restricting human rights. The protection of the rights of the child gives a sustainable result only in combination with the principles of the rule of law, legality, necessity, proportionality, judicial or prosecutorial supervision, confidentiality and effective guarantees of appeal. The protection of the rights of the child gives a sustainable result only in combination with the principles of the rule of law.

The survey results also point to preventive cybersecurity training as a priority. Cybersecurity courses in schools should not be limited to technical security alone, but should provide children with the skills to recognize the risks of online communication, protect personal information, recognize signs of grooming, seek help in cases of sextortion, report malicious content, and preserve evidence. And parental trainings should form a culture of trusting communication with children, providing assistance in a dangerous situation without accusations and contacting a specialist, rather than control and prohibitions.

A cautious but firm approach is needed to include special articles in the Criminal Code. It is not enough to create one general article “cybercrime,” since cybercrimes against children infringe on various objects: sexual integrity, confidentiality, data protection, honor and dignity, psychological security, property interests and social development. Therefore, it is advisable to regulate cyberbullying, sexual extortion, materials of sexual abuse of children, materials created with the help of AI, and the use of children’s information for the purpose of exploitation using certain elements in legislation.

As for the national center or a special institute, it is important not only to create a new organization, but also to combine existing powers into a single coordination system. The tasks of such a center may include statistical monitoring, communication with platforms, technical support for international surveys, psychological and legal support for affected children, development of preventive materials, methodological recommendations for the school and district systems, as well as analysis of cyber threat indicators. This approach adapts the interagency cooperation provided for by Law No. 996 of 2024 to the digital environment.

When comparing research results with other scientific approaches, international sources also point to legal definitions, collaboration with platforms, rapid storage of evidence, and prevention as important areas. The WePROTECT Global Alliance notes that the scale and methods of sexual exploitation and violence against children on the Internet are becoming increasingly sophisticated and evidence-based and multisectoral responses are needed (WePROTECT Global Alliance, 2023). The UNICEF Global Guidance on Legislation Relevant to the Digital Age also calls on states to clearly criminalize crimes related to the sexual exploitation of children on the Internet and strengthen mechanisms for cooperation with platforms (UNICEF, 2022).

Conclusion

The study shows that an important regulatory framework has been formed in the Republic of Uzbekistan to protect children from harmful information and violence in cyberspace. The survey results also confirm this conclusion: the overwhelming majority of respondents assessed national legislation as insufficient or partially sufficient, supported the inclusion of special articles in the Criminal Code and increased international cooperation. The survey results also confirm this conclusion: the overwhelming majority of respondents assessed national legislation as insufficient or partially sufficient, supported the inclusion of special articles in the Criminal Code and increased international cooperation.

First suggestion: Legislation should include clear legal definitions of concepts such as cyberbullying, sextortion, online assault, child sexual harassment materials, sexual materials about children created with the help of AI, as well as the use of children's personal information for exploitative purposes. These definitions should be consistent with the spirit of the Convention on the Rights of the Child, General Comment No. 25, the Budapest Convention and the UN Convention on Cybercrime.

The second suggestion is that the Criminal Code should develop norms providing for special responsibility for the creation or dissemination of materials about sexual harassment of children using cybercrimes, sexting, AI, the use of children's personal information and the involvement of minors in sexual or other exploitation on the Internet. At the same time, the organized group, cross-border nature, repeatability, age of the victim, use of artificial intelligence and consequences leading to suicide should be taken into account as aggravating circumstances.

The third suggestion: It is advisable to create a 24-hour point of contact in Uzbekistan to combat cybercrimes against children and integrate it into the system of international cooperation. This point of contact should have fast algorithms for storing electronic evidence, contacting foreign competent authorities, emergency communication with platforms, and eliminating the risk of a child victim.

Fourth suggestion: the Criminal Procedure Legislation should establish mechanisms for online storage of electronic evidence, data freezing, obtaining information about traffic and subscribers in accordance with the procedure established by law, requesting information from foreign providers and speeding up requests for international legal assistance in a separate manner for cybercrimes against children. These mechanisms should be developed taking into account guarantees of judicial or prosecutorial oversight, privacy and proportionality.

Fifth, a legal mechanism should be developed for technology companies to remove malicious content within 24 hours, respond to legitimate requests from law enforcement agencies within 72 hours, establish a local or regional point of contact for child safety, introduce a "report" button, and take administrative and financial responsibility for repeated violations.

Sixth suggestion: The prevention system should include regular courses on cybersecurity and digital legal culture in schools, practical trainings for parents, a single hotline, an anonymous online help platform, and mandatory professional development programs for professionals working with children. These measures should be considered as the most important stage of protection before punishment.

In general, an effective model for combating cybercrimes against children should be based on a combination of substantive criminal law, procedural powers, international cooperation, platform responsibility, and preventive education. Only in this case, Uzbekistan will be able to form a national system for the protection of children's digital rights that meets international standards, is based on human rights and works in practice.

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THE EUROPEAN UNION'S REGIONAL APPROACH TO COMBATING ILLEGAL MIGRATION

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Abstract. *This article examines the European Union's regional approach to combating illegal migration in the context of increasing cross-border mobility, security challenges, and humanitarian concerns. The main objective of the study is to analyze how the European Union designs and implements cooperative mechanisms with its member states and neighboring regions in order to prevent, manage, and reduce irregular migration flows. The research applies qualitative and comparative legal methods, including the analysis of EU migration policies, international legal instruments, regional agreements, and institutional practices such as Frontex operations and cooperation with third countries. The article identifies several key problems, including the unequal distribution of responsibilities among EU member states, insufficient coordination with countries of origin and transit, persistent human rights risks for migrants, and the limited effectiveness of return and readmission mechanisms. These challenges undermine the overall capacity of the EU to respond to illegal migration in a coherent and sustainable manner. Based on the findings, the study proposes a set of legal and policy recommendations, such as strengthening regional cooperation frameworks, improving information exchange and border management systems, expanding legal migration channels, and ensuring stronger protection of migrants' rights. The results of this research contribute to a better understanding of EU migration governance and offer practical guidance for enhancing regional security and migration management.*

Keywords: *illegal migration, European Union, regional cooperation, Frontex, migration law, border management, human rights*

Introduction

The essence and significance of a regional approach to illegal migration today manifests itself as a transnational problem that is difficult to address within the confines of a single state. The fact that migration flows have a regional nature, meaning they occur across the territories of several countries, requires coordinated policies at the regional level. Irregular migration refers to the movement of people from non-EU countries across EU borders without complying with the legal requirements for entry, stay, or residence. Given the complexity of this issue, a regional approach is considered one of the most effective strategies for cooperation between states in the fight against irregular migration (Dudin & Kalinina, 2013).

The main essence of a regional approach is to jointly manage migration processes, identify common risks and threats, and implement agreed-upon measures to address them. This approach allows for a deep analysis of root causes of illegal migration, monitoring of migration routes and preventing crimes related to illegal migration.

The EU and its member states are intensifying efforts to establish an effective, humanitarian and safe European migration policy**.** The European Council plays an important role in this effort by setting the strategic priorities. Based on these priorities, the Council of the EU establishes lines of action and provides the mandates for negotiations with non-EU countries. It also adopts legislation and defines specific programmes. Over the past few years, the Council and European Council have built up a strong response to migratory pressure (Council of the European Union, 2026).

The European Commission plays a key role in countering the irregular immigration of non-EU nationals into and within the EU. As part of its efforts to strengthen the EU's migration policy, the Commission works closely with EU countries and agencies, international partners, and other stakeholders to prevent irregular migration, protect migrants' rights, and ensure the dignified return of those who are not eligible to stay in the EU. The Commission's 2023 Communication, which establishes the multiannual strategic policy for European integrated border management, sets out priorities and guidelines to maintain a high level of security and ensure the effective management of the EU's external borders, including through the use of information technology (European Commission, 2026). It is worth noting that the issue of combating illegal migration within the European Union is very urgent, because illegal migration and migrant smuggling are considered a globally growing crime in the international arena. In particular, as a highly adaptive global criminal activity, migrant smuggling is rapidly evolving into a key factor of irregular migration. Driven by poverty, social and political instability, as well as the limited availability of legal migration routes, migrant smuggling pushes people towards criminal networks to facilitate their unauthorized entry, transit or stay in the EU. The journey to the EU can be extremely dangerous and smugglers frequently expose migrants to life-threatening risks and violence. Smuggling of migrants by sea is one of the most dangerous forms of migrant smuggling. The tragic loss of life in the Mediterranean Sea and the Atlantic Ocean underscores the urgent need for a robust and assertive response from the EU. To address this, it is essential to strengthen international cooperation against migrant smuggling among countries of origin, transit, and destination, alongside all relevant stakeholders, including international organizations (as illustrated by the yearly irregular arrivals across the Eastern, Central, and Western routes from 2015 to 2026).

Irregular arrivals in the EU have decreased significantly since the peak of the migration crisis in 2015. In 2026, 10 781 irregular arrivals were registered so far. The breakdown per migratory route is as follows:

Central route: 3,214 arrivals;

Eastern route: 3,088 arrivals;

Western routes: 4,479 arrivals.

In 2026, the top nationalities of irregular arrivals were:

Unknown: 1,564 on the Eastern route;

Bangladesh: 1,025 on the Central route;

Algeria: 853 on the Western route.

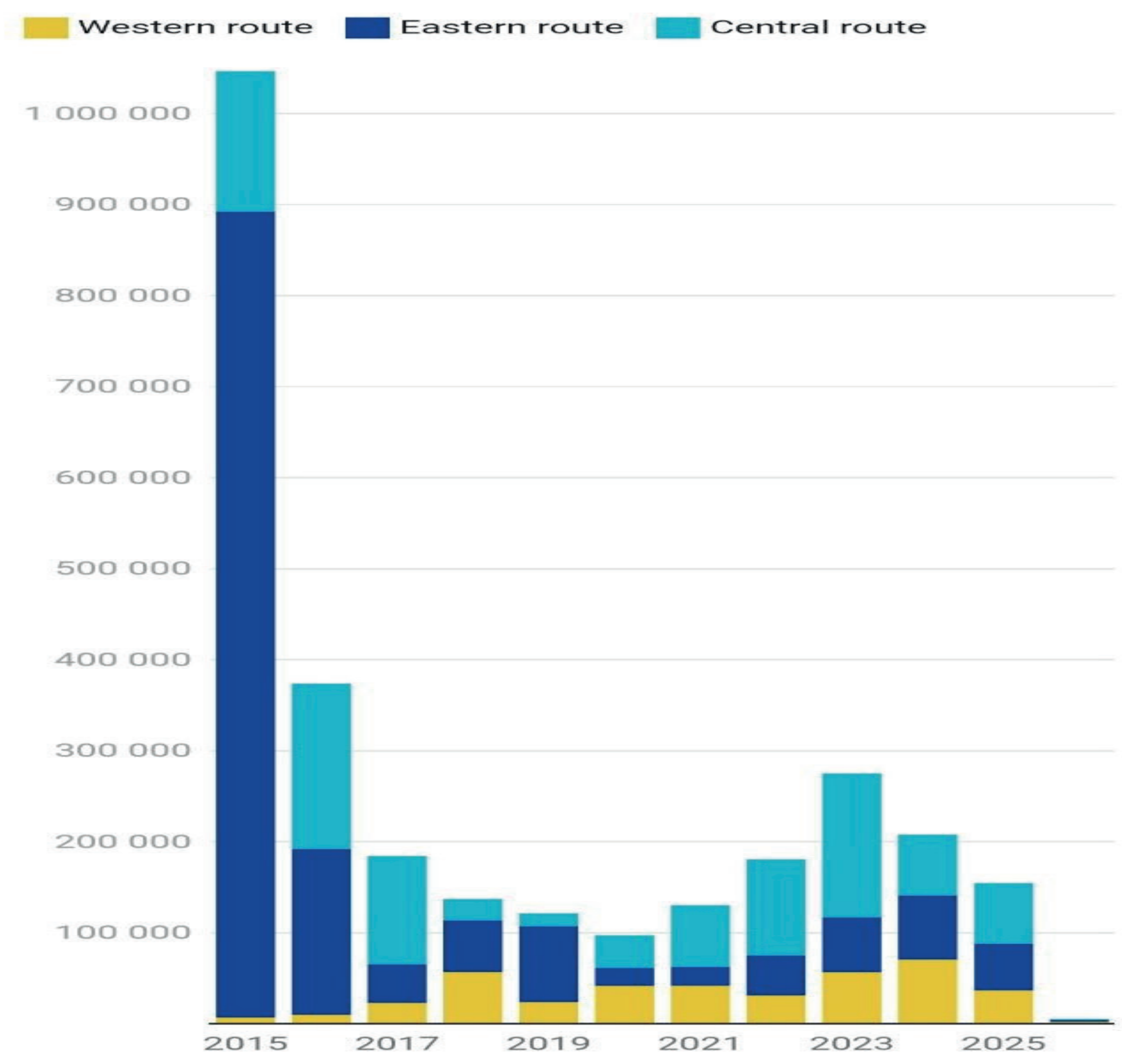

Figure. Irregular Arrivals to the European Union by Major Migratory Route (2015–2026)

The following should be said about the European Union's policy on combating illegal migration: Return and readmission are essential elements of a comprehensive approach to migration management and of a credible migration policy. The EU's policy aims to ensure the effective, human, and dignified return of those without a right to stay in the EU, for example persons who have had their asylum application rejected or those who have overstayed their visas. The policy ambition is to combine stronger structures inside the EU with more effective cooperation with third countries on return, readmission and reintegration. The Commission's work focuses on enhancing the effectiveness of returns through legislation, practical and operational tools as well as engagement with third countries on readmission cooperation. The Commission works with Member States and Frontex to put in place a common EU system for returns. The focus primarily lies on establishing comprehensive and coherent return and reintegration systems with efficient procedure, including return counselling structures, in which different migration authorities seamlessly cooperate. In line with the EU Strategy on voluntary return and reintegration, the Commission, Frontex and the Member States have enhanced their operational capacity for incentivizing voluntary return and enabling sustainable reintegration. On the external dimension, the Commission is engaging with third countries on improving cooperation on readmission, including in the context of comprehensive partnerships and using all relevant tools and policies. Currently, a number of regional organizations are developing important institutional and legal mechanisms to fight illegal migration. In particular, the activities of the Frontex agency within the European Union, cooperation mechanisms among the Commonwealth of Independent States, the Shanghai Cooperation Organization, and Central Asian countries are of special importance in this area. Within these organizations, the following main mechanisms are implemented:

- Developing regional strategies and programs aimed at combating illegal migration;
- Joint measures to ensure border security;
- Cooperation against human trafficking and the illegal transport of migrants;
- Harmonization of regulatory and legal documents in the field of migration.

Within the European Union, the fight against illegal migration is carried out on the basis of regional integration and a coordinated policy. In particular, in this area, comprehensive strategies and programs have been developed by the Member States to combat illegal migration, which serve to form a common migration policy. In particular, measures have been established within the framework of the New Pact on Migration and Asylum to manage migration flows, prevent illegal entry and improve the asylum system. At the same time, joint measures have been adopted between the Member States to protect the external borders of the European Union. The Frontex agency plays an important role in this regard, coordinating operations to strengthen border control, to detect and prevent illegal entry. In addition, since illegal migration is often associated with transnational crime, cooperation within the European Union against trafficking in human beings and smuggling of migrants is of particular importance. In this area, the fight against criminal networks is carried out through Europol and the rapid exchange of information between Member States is ensured. Harmonization of regulatory and legal acts in the field of migration is also an important area. In particular, through legal mechanisms such as the Schengen Agreement and the Dublin Regulation, uniform procedures have been introduced among member states, which serves to effectively manage migration processes and limit illegal migration. These mechanisms serve to improve the efficiency of managing migration processes in the region.

The phenomenon of irregular migration undermines the stability of international borders, facilitates transnational organized crime, and complicates the implementation of human rights and labor protection standards (The Guardian, 2015). The European Union, in order to achieve its economic and social integration goals, has been continuously discussing migration issues. By the 2050s, the European Union will need to accept 949,000 foreigners per year to maintain its population level. These figures indicate that the share of migrants and their descendants in the EU population could reach 75%. The European migration system operates to facilitate the entry of migrants from Western European countries and to create favorable conditions in Eastern European countries. The main features of the European migration model include factors such as a decrease in the number of political refugees, an increase in the number of immigrants in armed conflict zones, and strengthened control at internal borders. The Schengen Agreement is an important document for managing migration issues between France and other European countries (European Commission, n.d.). The concept of illegal migration has been expressed in various ways in scientific and specialized literature, so there is still no single definition of it. In particular, according to M. I. Barannik, illegal migration is defined as a process related to a person's moving to another country or leaving their place of residence, illegally bringing in or transiting foreign citizens within their territory, and exiting to another country contrary to the law (Barannik, 2002). Professor V.N. Sumarakov, on the other hand, considered that although a person's exit to a foreign country and presence in the territory of a second country may occur on legal grounds, their illegal entry into a country also qualifies as illegal migration (Sumarakov, 2014). Illegal migration has emerged as one of the most pressing challenges for the European Union (EU). Political instability, armed conflicts, economic inequality, and environmental crises in neighboring regions have significantly increased irregular migration flows toward the EU. Due to the abolition of internal borders under the Schengen Area, illegal entry into one Member State can impact the entire Union, making regional coordination essential. The EU's response is unique: it combines supranational legislation, shared competences, and regional agencies to manage migration collectively. This study analyzes the EU's approach to illegal migration at the regional level, focusing on legal frameworks, operational mechanisms, and external cooperation, while assessing their effectiveness in balancing security and human rights obligations.

Methods

This study uses an empirical qualitative research approach to comprehensively study the established and institutional mechanisms of the legal framework for combating migration in the European Union. The methodology allows for a deep analysis of socio-legal processes, revealing the structure and practical application of the normative-legal framework. One of the main methods of the study is the method of doctrinal-legal analysis. This study analyzes key EU legal frameworks governing migration policy, including the Treaty on the Functioning of the European Union (TFEU), the Schengen Borders Code, and the Return Directive. It further examines the interrelationships within this system and evaluates the EU's strategic efforts to combat migrant smuggling. These normative-legal documents constitute the main legal basis for managing migration processes in the European Union, organizing border control and determining migration. The role of doctrinal regulation in the national text of legal norms, as well as judicial and legal experience, practice and judicial experience was also considered. This serves as an important scientific basis for supporting EU law. Another important method used in the study is the method of comparative institutional analysis. Through this method, the role of institutions and agencies operating in the European Union and their mutual cooperation with the Member States in security were studied. Border control carried out by Frontex, mechanisms for combating crime and migrant smuggling in Europol, and processes for ensuring legal cooperation in transnational criminal cases through Eurojust were analyzed in depth. In addition, this study incorporates global trends in migration and human trafficking, drawing on reports from international organizations such as the United Nations Office on Drugs and Crime (UNODC). By situating the European Union's actions within this broader international framework, the research examines the Union's multifaceted approach to migration management.

A key feature of this study is its dual focus: it evaluates the European Union's efforts to combat irregular migration while simultaneously analyzing the institutional and legal norms that underpin these policy responses. That is, how the existing legal framework works in reality, the study analyzes the role and impact of migration laws. At the same time, the study compared the mechanisms at the European Union level with the national migration policies of the member states. This comparative analysis allowed us to determine the level of regional integration, harmonization of legal norms, and their practical implementation. In particular, the incomplete implementation of EU policies in some member states or the existence of problems related to national interests were scientifically substantiated. In general, this set of methodological approaches allowed for a comprehensive assessment of the European Union's system for combating illegal migration in all its aspects – legal, institutional, and practical – and ensured the scientific validity of the research results.

Results

The European Union harmonizes migration law across Member States by establishing a common legal and policy framework. This approach aims to ensure consistency, fairness, and efficiency in managing migration flows through the adoption of binding legal instruments, such as regulations and directives. These instruments set minimum standards in key areas, including legal migration, asylum procedures, external border control, and return and readmission procedures. Through mechanisms like the Schengen Borders Code and the Return Directive, the EU achieves legislative harmonization, which serves as the foundation for a common migration policy that balances border security with the protection of fundamental human rights.

To manage migration effectively, the European Union utilizes a tripartite framework of institutional and operational mechanisms:

1. Border Management and Operational Coordination: Frontex plays a central role by providing joint operational support to Member States, mobilizing rapid border responses, and conducting large-scale analyses of migration flows to monitor entry and exit points effectively.

2. Judicial Cooperation and Intelligence Sharing: Agencies such as Europol and Eurojust facilitate the recovery and exchange of intelligence information. This enables Member States to identify, investigate, and prosecute transnational criminal networks involved in migrant smuggling and human trafficking.

3. External Partnerships and Readmission Agreements: The EU engages in strategic cooperation with third countries—such as Turkey, Morocco, and various African nations—through Mobility Partnership Agreements and technical assistance programs. These agreements are essential for managing migration routes, regulating flows at the source, and ensuring the dignified return and reintegration of individuals who do not have the right to remain in the EU.

While these institutional mechanisms provide a robust structure for migration governance, the EU's integrated approach faces ongoing challenges. While legal harmonization and inter-agency coordination significantly strengthen external border security, frontline states continue to face disproportionate migration pressure. Furthermore, persistent political disagreements among Member States regarding burden-sharing occasionally hinder the full and uniform implementation of these policies.

Discussion

The findings demonstrate that the European Union has developed one of the most comprehensive regional migration governance systems through the harmonization of migration legislation, coordinated institutional mechanisms, and strategic cooperation with third countries. These results support earlier research indicating that migration management in Europe has gradually evolved from fragmented national policies into a common supranational framework aimed at balancing border security, legal migration, and the protection of fundamental rights (Djunadullayev, 2012; International Organization for Migration [IOM], 2022).

The harmonization of migration law has become a defining feature of the EU migration policy. Common legal instruments, including regulations and directives, establish minimum standards for asylum procedures, border management, return policies, and legal migration. The present findings confirm that legislative harmonization promotes greater consistency among Member States while reducing legal disparities in migration governance. This observation is consistent with previous studies emphasizing that coordinated legal frameworks are essential for ensuring both the effectiveness and legitimacy of migration management in the European Union (Sokolova, 2009).

The results also highlight the importance of institutional cooperation in addressing irregular migration. Agencies such as Frontex, Europol, and Eurojust have significantly strengthened operational coordination by supporting external border management, facilitating intelligence sharing, and combating transnational criminal networks involved in migrant smuggling and human trafficking. These findings reinforce previous research demonstrating that migration management increasingly depends on integrated institutional responses rather than solely on national enforcement mechanisms (IOM, 2022). The establishment of the Schengen Area further illustrates this integrated approach by removing internal border controls while simultaneously requiring stronger coordination at the external borders.

Another important finding concerns the growing role of external partnerships in EU migration governance. Agreements with countries such as Turkey, Morocco, and several African states demonstrate that migration management increasingly extends beyond the geographical borders of the European Union. These partnerships contribute to controlling migration routes, strengthening border capacity, and facilitating the return and reintegration of migrants without legal residence status. This external dimension reflects the EU’s broader strategy of addressing migration challenges through international cooperation instead of relying exclusively on internal regulatory measures.

Despite these achievements, the results also reveal persistent structural challenges. Although legislative harmonization has improved policy consistency, implementation remains uneven across Member States. Frontline countries, particularly Greece, Italy, and Spain, continue to experience disproportionate migration pressure because of their geographical location along the EU’s external borders. This finding supports previous studies indicating that unequal responsibility sharing remains one of the most significant weaknesses of the Common European Asylum System (IOM, 2022). Political disagreements regarding relocation mechanisms and burden-sharing have further limited the uniform implementation of common migration policies.

The findings further suggest that strengthening border security alone cannot fully address irregular migration. While stricter border controls may reduce unauthorized crossings in certain regions, they may also increase migrants’ reliance on criminal smuggling networks, thereby creating new humanitarian and security challenges. Consequently, migration governance requires a balanced approach that combines effective border management with the protection of human rights, access to international protection, and safe legal migration pathways.

Overall, the findings demonstrate that the European Union has established a sophisticated and largely effective regional migration governance model based on legal harmonization, institutional cooperation, and international partnerships. However, the long-term effectiveness of this model depends on improving solidarity among Member States, ensuring more equitable responsibility sharing, strengthening cooperation with countries of origin and transit, and maintaining full compliance with international human rights and refugee protection standards. Continued adaptation of migration policies will therefore remain essential as migration patterns, geopolitical conditions, and security challenges continue to evolve.

Conclusion

The European Union’s regional approach is a benchmark in managing illegal migration through harmonized law, strong institutions, and international cooperation. While the system demonstrates effectiveness, its sustainability depends on political solidarity, balanced burden-sharing, and continued compliance with human rights standards. Strengthening cooperation with third countries and updating operational mechanisms are essential for a resilient EU migration governance framework.

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GUARANTEEING PUBLIC ENVIRONMENTAL RIGHTS THROUGH THE REGULATORY FRAMEWORK OF SANITARY TREE TREATMENT

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Abstract. *This article examines the challenges of ensuring the public's right to a healthy environment in the context of sanitary tree cutting. The study analyzes the ecological, legal, and social aspects of managing urban green spaces. It establishes that while the primary purpose of sanitary cutting is to maintain ecological balance by removing diseased, damaged, or hazardous trees, improper execution can lead to the loss of green cover, degraded air quality, and the infringement of environmental rights. Drawing on the legislation of the Republic of Uzbekistan, international standards, and current scientific research, the article outlines the necessary procedures for compliant and sustainable management. The results suggest that strengthening environmental oversight, fostering public participation, and implementing integrated digital tools, such as the electronic ecological passport, are essential to addressing these issues. The article concludes with practical recommendations for improving regulatory practices in sanitary tree management to promote sustainable urban forestry development.*

Keywords: *sanitary pruning, cambium, dendrology, environmental protection, ecological safety, public control, electronic ecological passport*

Introduction

In recent years, the aggravation of environmental problems on a global scale, particularly the rapid intensification of urbanization processes and the consequent reduction of green areas, has become an urgent issue. According to UN projections, by 2050 almost 68 percent of the world's population is expected to live in cities (European Environment Agency. (2021). This will dramatically increase anthropogenic pressure on urban ecosystems. From this perspective, the preservation and rational management of green areas is one of the priority directions of environmental policy. At present, it is also necessary to ensure the safety of existing trees in many regions of the country. If proper preventive measures are not carried out, the process of their degradation and dieback will accelerate. Therefore, it is advisable to develop a set of requirements for sanitary pruning and reduction. Several legislative acts have been adopted in this regard; however, in some of them, the procedures directly regulating this system are not sufficiently systematized. In order to develop the sector, numerous new practices as well as empirical and theoretical findings from specialized institutions engaged in environmental protection have been analyzed. At the same time, it is also appropriate to draw upon the most recent experiences of foreign countries.

One of the important functions of carrying out sanitary cutting and pruning (shaping) of trees and shrubs is to ensure the phytosanitary condition of woody vegetation and to eliminate objects of plant quarantine (Vazirlar Mahkamasi, 2021). In addition, when performing sanitary cutting and pruning, it is necessary to take into account the changing age of trees and shrubs, the species and biological growth and development characteristics of the plant, the structural specificities of the trunk, the type of branching, the activation of dormant buds, as well as the plant's tolerance dynamics to pruning (Kuzmichev & Pechenitsyn, 1979).

Trees and shrubs, which constitute an essential component of green areas, are not only of aesthetic value, but also play a crucial role in air purification, regulating the microclimate, reducing noise levels, and preserving biological diversity. Research indicates that a single mature tree absorbs on average 20–30 kg of carbon dioxide per year and releases oxygen (FAO, 2020). Therefore, any management activity related to trees, including sanitary cutting, must be implemented with scientific justification and great caution.

Sanitary cutting is an agrotechnical measure aimed at removing or reducing trees that are diseased, desiccated, damaged by pests, or pose a threat to human life and infrastructure. The primary purpose of this process is to maintain the health of green areas and to ensure ecological sustainability. However, in practice, sanitary cutting is often misinterpreted, and cases of excessive and unjustified cutting are observed. In Uzbekistan as well, in recent years significant steps have been taken to protect green areas and to tighten measures against tree felling. In particular, the introduction of a moratorium on tree cutting and the strengthening of environmental control have become important milestones.

In Uzbekistan, cases of tree felling are being studied through satellite imagery. This was reported by Farhod Mahmudkhodjayev, head of a department at the "Oʻzbekkosmos" Agency, in an interview given to a "Daryo" correspondent during a forum on space technologies held in Tashkent on 31 March. According to the agency representative, a moratorium on tree felling has been declared in the republic. Nevertheless, illegal acts such as unauthorized tree cutting continue to occur. Therefore, in 2025, a monitoring model for detecting tree felling was developed for certain regions using satellite imagery. The data obtained were submitted to the Ministry of Ecology and all of them were confirmed. From 2026, this monitoring system was introduced throughout the entire territory of Uzbekistan.

"In this system, the area of tree felling is identified using images obtained from satellites. The data are then transmitted to the relevant ministries and agencies. The system operates automatically. Naturally, it is difficult to obtain all images in real time, since the reception of satellite images depends on weather conditions. In cloudy weather, satellites cannot capture images. One should not rely entirely on the satellite model alone; additional verification is necessary. Therefore, in order to ensure high accuracy of the data we provide, we verify the results using geoinformation systems. To date, data on tree felling in Tashkent and Fergana regions recorded last year have been uploaded to the portal treecut.spacemc.uz. The process can be monitored through this website," the specialist noted.

It has been reported that, initially, images are received from the satellite. Then, it is determined whether trees are present in a specified area. Subsequently, the data are uploaded to a special portal.

On 30 December 2021, President Shavkat Mirziyoyev signed a decree extending indefinitely the validity of the moratorium on the felling of valuable species of trees and shrubs that are not part of the state forest fund (President of the Republic of Uzbekistan, 2021). The legislation establishes a range of liabilities for violating this moratorium.

Methods

In this scientific article, a number of methods are employed, including systemic-structural, logical, inductive, deductive, comparative-legal analysis, comprehensive study of scientific sources, as well as the analysis of statistical data and several other approaches.

In legal scholarship, systemic-structural, logical, inductive and deductive methods play an important role in revealing the complexity of legal relations. The systemic-structural method is used to examine legal institutions by breaking them down into constituent elements – for example, analysing contract law by distinguishing subjects, object, content and form, or studying judicial proceedings by dividing them into first instance, appellate and cassation stages. The logical method is applied in analysing legal norms, synthesising various legislative acts and comparing legal institutions – for instance, identifying common principles by comparing national and international legal norms. The inductive method is used to identify general legal trends through the study of judicial practice, such as analysing numerous court decisions to determine overall patterns in law enforcement. The deductive method, in turn, is applied in resolving specific legal situations on the basis of the general principles enshrined in the Constitution and laws – for example, settling individual cases or extending legal precedents to new circumstances derived from fundamental human rights principles. The combined use of these methods enables legal scholars to conduct an in-depth analysis of legal phenomena, to uncover the laws governing the development of the legal system, and to develop scientifically grounded recommendations for legal practice.

The object of the study is the system of legal relations arising in the course of protecting trees and plants in the context of safeguarding individuals' environmental rights.

Results

The analysis carried out shows that, at present, there are 23 legislative acts regulating the field of sanitary treatment of trees, 65% of which have been adopted at the local level and 35% at the republican level. However, 42% of these acts contain mutually contradictory provisions, which gives rise to problems in legal regulation. In particular, in 2025 the damage caused by illegal tree felling amounted to 13.3 billion soums (Ministry of Ecology, 2025). In 2025, 2,328 offences related to the illegal felling of trees and shrubs were recorded in Uzbekistan. In these cases, the unlawful cutting of 953 valuable and 2,388 less valuable trees was documented. For these violations, fines totalling 20 billion 526 million soums and environmental damage in the amount of 13 billion 315 million soums were imposed.

Based on the above precise statistical analyses, the following proposals have been developed, which serve to prevent damage to vegetation, regulate sanitary cutting of trees, and enhance the effectiveness of mechanisms for using scientific research results in protecting the environmental rights of individuals and citizens.

First, for every tree subject to sanitary cutting, appropriate preventive measures should be carried out using suitable means. The loss of the multiple ecosystem services provided by a single tree leads to significant damage to the environment, including deterioration of air quality, an increase in temperature, rise in dust concentration, and many other negative consequences.

Second, the development of e-government in our country demonstrates that various sectors are being transferred to digital systems. Therefore, it is necessary to introduce a QR-code-based “Electronic Environmental Passport” system for each tree planned to be felled.

Third, the participation of neighbourhood (mahalla) activists in decisions on tree felling within urban development projects is of great importance. This would further strengthen the role of public oversight in regulating this sphere in the country.

Fourth, it is advisable to impose an obligation to plant at least 10 healthy seedlings in the same area for every felled tree and to ensure their maintenance for a period of three years. This will increase the overall number of trees and prevent the newly planted trees from drying out.

Results

The findings of the study show that improper organization of sanitary cutting operations negatively affects ecological balance and may restrict the population’s right to a healthy environment. In particular, unjustified tree felling leads to a reduction in green areas and an increase in air pollution levels. Analyses indicate that in areas where green spaces have decreased by 10–20 percent, the concentration of harmful substances in the air has risen significantly.

It has also been established that tree felling causes changes in the microclimate, namely an increase in air temperature and a decrease in humidity. This, in turn, has an adverse impact on the health of the urban population in particular. During the research it was revealed that in places where green areas have declined, the incidence of respiratory diseases has also increased. In addition, it was found that in some regions sanitary cutting operations are being carried out without environmental impact assessment and without giving due consideration to public opinion, which indicates the presence of certain shortcomings in the environmental governance system.

In recent years, the expansion of green areas, ensuring ecological stability and mitigating the negative effects of climate change have become one of the priority directions of state policy in the Republic of Uzbekistan. In particular, sanitary cutting, pruning for the safety of power lines, shaping, and landscaping works are being widely implemented. A number of regulatory legal acts have been adopted in this field. The tasks of preserving green areas and protecting trees are defined in Presidential Decree No. DP-46 of 30 December 2021 “On measures to accelerate greening works in the Republic and to organize tree protection more effectively,” Presidential Decree No. DP-199 of 23 November 2023 “On measures to further increase the level of greenery in the Republic and ensure ecological stability through the consistent implementation of the nationwide project ‘Green Space’,” and Presidential Decree No. DP-90 of 10 June 2023 “On measures to organize effective public administration in the field of agriculture and food within the framework of administrative reforms.” In addition, the Cabinet of Ministers of the Republic of Uzbekistan has adopted several resolutions related to this sector.

However, an analysis of current practices indicates that clear legal mechanisms for the protection of trees following sanitary cutting operations have not yet been fully established. According to sectoral scholars and dendrologists (Ta’limning Zamonaviy Transformatsiyasi, 2025), as well as research into phytopathogenic risks (Davis, 2009), an open cut surface on a tree trunk constitutes a significant point of biological stress. This exposure causes direct damage to the cambial layer, leading to a slowdown in regeneration processes, the entry of moisture, and the penetration of phytopathogenic fungi (Abdinazarov & Temirov, 2021), which subsequently attracts harmful insects. These physiological processes have been extensively documented by domestic scientists. In practice, sanitary cutting of trees and shrubs is intended for specimens damaged by natural factors or pests, those that have exceeded their biological age, or those that pose a direct threat to public safety and infrastructure (Brickell & Joyce, 2006). Based on established arboricultural standards, there are three primary types of pruning for sanitary purposes: shaping, sanitary pruning, and rejuvenation pruning (Gorzkowska et al., 2016).

Pruning trees and shrubs for shaping is carried out for the following purposes: to create and maintain an artificial form of well-developed shoots and branches; to modify the growth patterns of plants, including lifting branches and shoots and limiting their height. When pruning all types of branching trees, their natural appearance must be taken into account. It is not recommended to drastically alter the natural height and shape of the trunk characteristic of each tree species (Burger et al., 2021).

Failure to follow the above scientific and theoretical recommendations leads to various problems, such as premature drying of trees, a decrease in urban green areas, a decline in ecological stability, and the emergence of threats to public safety. Scientific observations show that in trees whose open cut surfaces are not protected, the likelihood of disease can increase by a factor of 2–4. Therefore, in order to prevent the formation of wounds and decay on the trunks of trees subjected to sanitary pruning, it is recommended to cover all cuts with a diameter of more than 2 cm with tree wound sealant or oil-based paint. For coniferous trees that exude large amounts of resin, it is not necessary to apply wound sealant to the cut surface. This demonstrates that it is advisable to carry out appropriate preventive measures during sanitary pruning of many trees in the country. However, in recent years, in Tashkent and a number of other regions, numerous long-lived trees and shrubs have died as a result of extensive felling and inadequate professional sanitary treatment.

In order to regulate these processes, a number of countries have developed regulatory legal acts and implemented various measures. For example, trees play an important role among Ukraine’s natural resources and, as in many other countries of the world, have significant national economic value. Oak forests, in particular, stand out for their high-quality timber and diverse natural functions, which include permanent protection of water and soil, sanitary and hygienic functions, recreation and health-improvement functions (Stanislavov & Makarchuk, 2024). It should be noted that the productivity level of Ukraine’s oak forests is comparable to similar plantations in Europe. However, the incidence of diseases among trees and shrubs belonging to the forest fund of such countries is also increasing. One of the main reasons for this is problems related to thinning and reduction. Removing diseased or weakened trees during thinning creates space and resources for the growth and regeneration of healthy oaks. This helps to form resilient stands capable of performing ecological functions and supporting biodiversity. Dead or dying trees in oak stands pose risks such as increased fire hazard and structural instability. Sanitary fellings help to mitigate these risks by proactively eliminating potential sources of environmental damage. Thus, the introduction of sanitary cutting in oak plantations is crucial for maintaining ecosystem health, enhancing resilience, and ensuring the sustainable management of valuable forest resources (Yale School of the Environment, 2021).

A number of practices have been developed in this regard, including: introducing a gradual harvesting or cutting approach that ensures the conservation and reproduction of valuable tree species, particularly common oak; establishing special plantations where cutting and pruning works are carried out under natural conditions; and ensuring compliance with laws designed to protect trees belonging to the forest fund (American National Standards Institute [ANSI], 2023).

At the same time, scholars at Yale University, one of the oldest and most prestigious universities in the United States, have concluded that, in order to ensure the right of the population to a healthy environment, periodic thinning and shaping of trees is a scientifically justified necessity for maintaining the health of forest and urban ecosystems (Republic of Uzbekistan, 2023).

Furthermore, in many other developed countries, including Germany, Canada, Poland and the Czech Republic, as well as in international organizations such as the “Urban Forestry Standard,” tree-cutting standards are mandatory. The relevant normative documents of this organization stipulate that compliance with “ANSI A300” American National Standards Institute. (2023) standards is required, meaning that cutting and maintenance works must be carried out in accordance with international arboricultural standards.

Such practices help to ensure the stable growth of remaining trees and enhance the overall resilience of nature. However, under current real conditions in our country, the concept of “sanitary cutting” often deviates from its original essence and, regrettably, serves as a legal “cover” for the destruction of healthy trees in order to clear construction sites or pursue commercial interests. My firm position is that any opinion issued regarding tree felling must not remain mere bureaucratic paperwork. To guarantee the legality and fairness of the process, each case must undergo an independent environmental audit in real conditions. Only expert opinions provided by impartial specialists and made publicly accessible can in practice guarantee citizens’ constitutional right “to have access to reliable information” enshrined in Article 49 of our Constitution.

Therefore, sanitary cutting must not be carried out on the basis of questionable decisions, but under transparent and independent supervision. Only then will our green areas, which are considered the “lungs” of nature, not become victims of so-called “sanitary cleaning.” Indeed, the people’s right to live in a healthy environment takes precedence over any material or construction interests.

Within the framework of this scientific article, I propose the following measures to improve the guarantees of the population’s right to a healthy environment in the implementation of sanitary cutting operations:

First, appropriate preventive measures must be carried out for every tree subject to sanitary cutting using suitable means. That is, after cutting trees and shrubs, it is necessary to prevent the transmission of various diseases and to ensure that direct sunlight does not lead to the drying out of even small branches.

Second, it is necessary to introduce a QR-code-based “Electronic Environmental Passport” system for each tree scheduled for felling. If this system is indeed implemented, the technology will establish online monitoring over every tree felling operation. As a result, transparency of information for the population will be ensured and unjustified cutting will be prevented.

Third, when trees are to be cut within urban development projects, the consent signatures of mahalla activists and residents must be obtained, and making this consent a legal requirement will further strengthen public oversight.

Fourth, it is necessary to impose an obligation to plant at least 10 healthy seedlings in the same area for each felled tree and to ensure their maintenance for three years. This will increase the number of trees and prevent the newly planted trees from drying out.

Thus, these measures will eliminate the use of "sanitary cutting" as a pretext and will compel those cutting trees to be accountable before the public and the law. If dozens or even hundreds of seedlings are planted for each felled tree and mahalla oversight is established, the focus will shift from exploiting nature to preserving it.

Conclusion

In conclusion, sanitary cutting of trees must not be perceived as a means of destroying vegetation, but as a scientifically grounded instrument for genuinely improving the health of urban greenery and restoring ecological balance. The analysis demonstrates that ensuring the population's right to a healthy environment is not limited to merely preserving trees; it also requires guaranteeing that every cutting operation is justified by sound scientific criteria and conducted in a transparent manner. If this process is not reinforced by independent expert assessment, public oversight and digital monitoring, measures ostensibly aimed at "improvement" risk losing their true purpose and turning into practices that run counter to citizens' environmental interests.

Accordingly, the mechanisms proposed in this article – digital passportization of trees, independent environmental audit, and the mandatory consent of local (mahalla) residents – should be regarded as key legal instruments for upholding the rule of law in the field of tree management. Only through strict public control and the establishment of an effective compensation system, whereby each felled tree is adequately replaced, can a healthy urban environmental setting be preserved. Ultimately, ensuring transparency in sanitary cutting not only strengthens public trust in state environmental policy, but also lays a robust legal foundation for bequeathing an ecologically sound natural environment to future generations.

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LEGAL CONSEQUENCES OF ENFORCING A FOREIGN ARBITRAL AWARD ANNULED IN THE COURT OF ORIGIN: ANALYSING COMMISA V. PEMEX CASE AND CHROMALLOY AEROSERVICES V. ARAB REPUBLIC OF EGYPT

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Abstract. *This article looks into the problems that come with enforcing foreign arbitral awards that have been set aside, especially in U.S. courts, and looks at how this affects the international dispute resolution system. The article focuses on how U.S. courts have dealt with cases such as PEMEX, a state-owned oil company, and COMMISA, a subsidiary of KBR, Inc., a U.S. construction company, and Chromalloy Aeroservices v. Arab Republic of Egypt. Enforcing awards that have been set aside is still a big topic of debate, and it gets criticized by both legal experts and professionals. Some courts respect the decisions made at the place where the arbitration happened and choose not to enforce annulled awards, showing respect for international cooperation. Others use the rules from the New York Convention to check the validity of the awards on their own and might still enforce them even if they were set aside. The study looks at how different places handle this issue, especially recent U.S. court rulings. It ends by saying these differences might hurt the main ideas of international arbitration, like fairness and efficiency.*

Keywords: *international arbitration, foreign arbitral awards, annulment, enforcemen, New York Convention, COMMISA a subsidiary of KBR, Inc., a U.S. construction company v. state-owned oil company PEMEX, Chromalloy Aeroservices v. Arab Republic of Egypt*

Introduction

International commercial arbitration is now widely used to settle business disagreements (Carter & Fellas, 2010, p. 25). Unlike court cases, arbitration is neutral, private, and involves experts (Makhmudov, 2022, p. 68). Another reason people choose arbitration over court is that the result, an award, is final and can be recognized in other countries (Born, 2021). Thus, the success of arbitration depends on the ability of national courts to recognize and follow the awards.

The purpose of this article is to analyze recent *COMMISA v. PEMEX and Chromalloy v. Egypt cases* in order to identify different approaches used by U.S courts and the challenges that may arise because of enforcement of annulled foreign arbitral awards. The relevance of *COMMISA v. PEMEX and Chromalloy v. Egypt cases* is due to the fact that US. Courts implemented new approach while dealing with enforcement of annulled foreign arbitral awards. Further, the main research question is to identify whether this novelty similar to French court's approach is legal and does it comply with Article (1)(V) New York Convention and basic principles of international law such as comity and legality.

The proper working of arbitration is supported by coordinated rules. There are several systems that set up the international rules for recognizing and following foreign arbitration decisions. First, the New York Convention (1958) provides international ways to recognize and follow foreign awards. Second, the Geneva Convention (1961) on International Commercial Arbitration deals with several issues in cross-border disputes. Third, the UNCITRAL Arbitration Rules (1976) are a model for procedures used in many arbitration centers worldwide.

Even though these agreements make it easier to recognize and follow awards, they also address certain exceptions. For example, Article V(1) of the New York Convention allows courts to refuse recognition under certain conditions: (a) the parties to the agreement were not capable under the law, or the agreement is not valid under the law; (b) the party against whom the award is made was not properly notified of the arbitrator or the arbitration process; (c) the award is about a disagreement not covered by the arbitration agreement or makes decisions on issues outside the agreement, unless those can be separated; (d) the composition of the arbitration panel or the process did not follow the agreement or the law of the country where the arbitration took place.

Article V (1) (e) of the New York Convention is one of the grounds on which recognition and enforcement "may be refused" at the request of the party against whom it is invoked. The language of the New York Convention states that "the award has not yet become binding on the parties or has been set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made" (Rowley, 2021, p. 13). Similar language is provided in Panama Convention: "The decision is not yet binding on the parties or has been annulled or suspended by a competent authority of the State in which, or according to the law of which, the decision has been made" (Inter-American Convention on International Commercial Arbitration, 1975). As underscored by permissive language, the Conventions themselves seem to leave a country free to enforce an award set aside in the country where the award was rendered (Silberman & Yaffe, 2017).

With this background, there is an ongoing debate in international arbitration about whether awards that have been set aside can still be enforced in other countries. In this regard, it is important to note opinion of a well-known expert in the field of international commercial and international investment arbitration, Emmanuel Gaillard who supports French approach, admits that enforcement of annulled foreign arbitral awards is a positive trend, and does not breach the legitimacy principle. According to him, although this approach recognizes the binding nature of arbitral award, it rejects the idea of attachment of final award to the seat of arbitration (Gaillard, n.d., p. 1). Similar opinion has Professor R. Seyyadi, an Assistant in Commercial Law, University of Bahrain (Kingdom of Bahrain) (Seyyadi, 2018, pp. 128–141). The issue is not settled and is about how international agreements should be interpreted, especially regarding uniformity in following awards and protecting the rights of the parties involved. It also brings up bigger questions about how independent arbitration is from national courts, possible differences in decisions across places, and how strong and far-reaching arbitral awards really are. In addition, some authors hold opposing views regarding the consideration of annulled arbitral awards. The reason behind that is the use of French approach by other states can lead to violation of the principle of good faith (Polkinghorne, n.d.).

Generally, courts dealing with awards set aside in the country where the arbitration happened can take one of three approaches: (1) they might treat the award as invalid, meaning there's nothing to enforce; (2) they might ignore the cancellation, believing that courts in each country can look at the validity of the award using their own laws; or (3) they might show some respect for the cancellation decision, but still keep the choice to enforce the award if the circumstances justify it (Polkinghorne, n.d., p. 800).

When a country ignores an award simply because it finds no reasons to recognize or follow it, it acts as though arbitration is just an extension of its own legal system. So, it makes sense that the courts where the arbitration took place should have full control over the award. Since the parties chose that place on purpose, they probably expected that the courts there might cancel the award.

Many countries, including Russia, Chile, Germany, and others with civil law systems, have adopted this approach (Paulsson, 2016, p. 21). However, a few countries, such as France take a different stance. In France, both historically and currently, the law explicitly excludes the ground in Article V (1) (e) of the New York Convention as a reason for refusing to recognize an arbitration award. The French view is that international arbitration operates within a transnational legal system and is not tied to any single national legal system. As a result, an arbitration award that has been set aside at the seat of arbitration can still be enforced in France, unless there is another reason under the Convention that prevents enforcement based on French domestic law (Silberman & Yaffe, 2017). French approach can lead to inconsistency, as different tribunals may issue conflicting awards (Matveeva, 2016).

In the United States, courts have taken a middle ground. Some courts give some freedom to the place where the arbitration happened and follow the way Germany, Russia and Chile do, by not enforcing an annulled award because there is nothing to enforce. Other courts follow the approach of the French courts and enforce the award even if it was set aside at the arbitration seat. For example, in *Baker Marine v. Chevron*, the Second Circuit Court of Appeals said it would only enforce an annulled award if there were strong reasons to ignore the decision of the Nigerian court that annulled it. They found that there were no such reasons in that case (Baker Marine Nigeria Ltd. v. Chevron Nigeria Ltd., 1999).

Methods

This study is aimed at a comparative analysis of U.S. court's decisions on enforcement of annulment of foreign arbitral awards. During the preparation of this article, modern methods of studying legal phenomena and processes were employed, including both general scientific methods (systemic analysis, dialectical method, comparison, and classification) and specialized legal methods (comparative legal analysis, formal-legal method, historical method, system-structural analysis, statistical method, and descriptive-analytical method).

This study is conducted based on a comparative-legal research design. This approach made it possible to examine the enforcement of annulled foreign arbitral awards practice in the United States of America with comparison to the decisions made by such famous tribunals as Netherlands. Also, the study involves the consideration of case law of France, Germany, Mexico, Russia and other countries. The following table contains literature review. All materials have been sources from reliable research database. These articles have been sourced by using the following key words: "annulled arbitral awards," “New York Convention,” “international comity,” “international commercial arbitration.” Language of the following articles is English. Included articles are from 1998-2025 years of publication.

Table 1

Author	Research Title	Jurisdiction/ Countries studied	Research Focus	Key Findings
(Emmanuel Gaillard., 1998)	Enforcement of Awards Set Aside in the Country of Origin: The French Experience	France, United States of America	Comparative enforcement mechanisms	An arbitral award does not derive its validity exclusively from the law of the seat of arbitration. The enforcing state may independently determine whether the award should be recognized and enforced.
(Silberman, L.,&Yaffe.,N. 2017)	The US Approach to Recognition and Enforcement of Awards after Set-Asides: The Impact of the Pemex Decision	Unites States, France, Netherland, Mexico	Comparative enforcement of arbitral awards annulled at the seat; interpretation of Article V(1)(e) of the New York Convention; impact of the Pemex decision on U.S. doctrine	U.S Courts applied French approach by enforcing annulled foreign arbitral award. International case law has been considered.
(D.V. Krasikov., 2019)	Recognition and Enforcement of Arbitral Awards Set Aside Abroad: Problems of Consistency of the International Regime	France, United States, Netherlands	Enforcement of foreign arbitral awards annulled at the seat; coherence of the international enforcement regime under the 1958 New York Convention	The study revealed comparative analysis of case law and precedents in terms of enforcement of annulled arbitral awards.
(Seyadi, R., 2018)	Enforcement of Arbitral Awards Annulled by the Court of the Seat	International	Enforcement of annulled arbitral awards at the seat	The author supported the opinion in favor of French approach
(Nam. P.H., 2025)	Public Policy and the Refusal to Enforce Foreign Arbitral Awards: A Comparative Analysis of France, Singapore, and Vietnam	France, Singapor, Vietnam	Public policy exception	Public policy applied differently across jurisdictions

Results

The findings of this study demonstrate that the enforcement of annulled foreign arbitral awards varies significantly depending on the legal approach adopted. The case law analyzed in the research shows that the French approach is relatively strict, whereas U.S. practice follows a more moderate, middle-ground position. At the same time, a growing tendency toward the French approach can be observed in U.S. judicial decisions.

With regard to implications for Uzbekistan, although the field of international commercial arbitration has developed only recently, a detailed analysis indicates that judges at times face difficulties in applying the New York Convention. In some instances, courts appear to adopt a selective or inconsistent approach when deciding on the enforcement of foreign arbitral awards. For example, scholar Sharipov (2019) highlights this issue in a recent article, describing enforcement practice in Uzbekistan as "unpredictable."

Despite Uzbekistan's efforts to position itself as an arbitration-friendly jurisdiction, recent case law suggests a contrasting trend. Therefore, it is essential to closely examine these challenges and address existing shortcomings in order to avoid repeating the mistakes observed in other jurisdictions.

The following table explains the results and tendency of case law concerning enforcement of annulled foreign arbitral awards by jurisdictions.

Table 2

Case	Situation	Setting aside at the seat	Enforcement despite annulment?	Reasoning
COMMISA vs. PEMEX	The dispute arose between Mexican state-owned oil company and U.S. company concerning construction of oil platforms	Yes	Yes	U.S courts enforced arbitral award despite being annulled at the seat due to the misapplication of reciprocity and basic principles of justice.
Chromalloy vs. Egypt	The dispute is similar to Pemex and concerned the issue of enforcement of annulled foreign arbitral awards	Yes	Yes	US court enforced annulled award, holding that the parties' arbitration agreement and New York Convention allowed enforcement despite annulment; pro-arbitration/public policy approach.
Yukos Capital vs. Rosneft	The dispute was considered by the Tribunal in Netherlands and has a long history including bankruptcy, criminal issues. Dutch court enforced annulled decision by Russian courts.	Yes	Yes	The court reasoned rejection of Russian court's decision due to political reasons, expropriation, and fabricated documents.
TermoRio vs. Electranta	The dispute arose between Colombian party and Colombian state-owned utility. It concerned the breach of power purchase agreement.	Yes	No	U.S courts here rejected the enforcement of annulled foreign arbitral award.

Discussion

The Pemex dispute was between Commisa, a Mexican branch of the U.S. company KBR Inc., and Pemex, the state-owned oil company. The disagreement involved two contracts for constructing offshore oil platforms in the Gulf of Mexico. The contracts required any disputes to be settled through arbitration in Mexico (Corporación Mexicana de Mantenimiento Integral v. Pemex, 2016). In 2009, an arbitral tribunal ruled in favor of Commisa, awarding over $350 million due to a breach of contract. However, in 2011, a Mexican court overturned the decision, stating that Mexican administrative law did not allow arbitration for disputes involving a state-owned entity.

Commisa then tried to get the award enforced in U.S. courts. In 2013, a federal court in New York ruled in Commisa's favor, concluding that the Mexican court's annulment violated fundamental principles of justice because it retroactively applied administrative law to render the dispute non-arbitrable. In August 2013, Judge Hellerstein from the US District Court for the Southern District of New York approved the award, which was about $300 million, even though it had been set aside in Mexico. This decision was upheld in 2016 by the Second Circuit, which affirmed that U.S courts have broad discretion to enforce annulled arbitral awards, when the foreign annulment conflicts with U.S public policy and undermines basic notions of justice and morality (Paulsson, 2016a).

This position showed a big change from earlier decisions, like *TermoRio S.A. E.S.P. v. Electranta S.P.*, where the D.C. Circuit said that arbitral awards overturned at the place where the arbitration happened usually should not be enforced in the United States, unless there were special reasons. That case dealt with a decision by a Colombian court to cancel an award in Colombia. The next case also supported the importance of public policy principles (Paulsson, 2016b, p. 21).

Public policy involves fundamental principles that possess an imperative nature and have social and public significance. Each state has its own public policy principles that can truly vary depending the legal system, sovereignty, rights and obligations, culture and in some jurisdictions religion. This principle is important to explore due to its evolving nature and broad interpretation.

By contrast, in the *COMMISA v. PEMEX case*, U.S. courts moved away from strict deference to the seat of arbitration. Both the Southern District of New York and the Second Circuit concluded that enforcement could still be granted despite the annulment. They reasoned that the Mexican court's ruling conflicted with fundamental principles of justice because it retroactively applied rules of non-arbitrability, thereby leaving Commisa without any effective forum to pursue its claims.

This divergence can be understood through several interconnected legal principles. One of the key concepts is international comity, which generally calls for courts to respect foreign courts (Paulsson, 2017). Although comity is discretionary doctrine rather than mandatory, the original framework of the relevant conventions envisioned a cooperative relationship between courts at the seat of arbitration and courts of enforcement – one grounded in mutual respect rather than hierarchy (Paulsson, 2016, p. 21).

In *Pemex case*, however, U.S. courts limited the application of comity, finding that the Mexican judgment was fundamentally inconsistent with standards of due process and fairness. This reflects a shift away from automatic deference toward a more qualified approach, under which enforcement may be denied if the foreign annulment is deemed "incompatible" with basic principles of justice.

In the *Yukos Universal Limited (Isle of Man) v. The Russian Federation case,* a similar argument was made. The Amsterdam Court of Appeal enforced through with an arbitral award that had been rejected by Russian courts. They argued that the Russian cancellation should not be recognized because it was considered a foreign court decision from a system that was not fair or impartial, so did not qualify for recognition (Yukos Universal Ltd. v. The Russian Federation, 2005). The Dutch court treated the Russian annulment as a foreign judgment issued by a tribunal lacking independence and impartiality, and therefore undeserving of recognition. This case is often viewed as a clear example of the "judgments approach," since deficiencies such as lack of judicial independence and procedural fairness are widely accepted grounds for refusing recognition.

Another important issue in the case was the use of Mexican administrative rules after the fact. U.S. courts viewed this as undermining legal certainty and legitimate expectations, particularly in commercial arbitration, where parties rely on the stability of dispute resolution clauses. Retroactive invalidation of arbitration undermines the principle of *pacta sunt servanda* (agreements must be kept) (Born, 2021). Retroactive application of arbitration was one of the reasons and ground for U.S. court to enforce set aside foreign arbitral award. Concerning the principle of *pacta sunt servanta,* the U.S. court reffered in order to explain the binding nature of agreements and illegality to use optionally retroactive invalidation.

Although not presented as a traditional expropriation dispute, the U.S court's reasoning effectively treated the Mexican annulment as having an expropriatory impact. By setting aside the award and foreclosing any alternative forum, the state effectively stripped Commisa of its established monetary claim. The court viewed this as leaving the claimant without a remedy, which resembled uncompensated state interference with vested rights.

The decision also used public policy except in Article V of the New York Convention. Even though this exception is usually applied very carefully, the court used it to say they would not recognize the Mexican court's decision to cancel the arbitration, not the arbitration award itself. This reflects a broader reading of public policy, one that places greater emphasis on procedural fairness and due process that on strict deference to the seat of arbitration.

This approach is quite different from cases like *TermoRio S.A. E.S.P. v. Electranta S.P.*, where the D.C. Circuit said that awards made at the seat of arbitration should usually not be enforced unless there are very special reasons (TermoRio S.A. E.S.P. v. Electranta S.P., 2007). *The Pemex case* shows a more active approach in enforcing awards, letting U.S. courts look into whether the foreign decision to cancel an award was valid.

The Analysis of Chromalloy decision

In the Chromalloy case, the U.S. District Court for the District of Columbia applied U.S. federal rules on domestic arbitration to enforce an award that had been set aside by an Egyptian court. The court used Article VII of the New York Convention along with U.S. arbitration laws and decided that it was okay to enforce the award because refusing to do so would go against the strong public policy that supports recognizing arbitral awards.

According to the Art VII of the New York Convention "shall not deprive any interested party of any right he may have to avail himself of an arbitral award in the manner and to the extent allowed by the law or treaties of the country where such award is sought to be relied upon." The New York Convention uses wording that sets a basic standard for recognizing and enforcing foreign arbitration decisions. This means that while the Convention lists some reasons why enforcement might be refused, it does not stop countries from using their own laws that are more helpful for enforcement. So, if a country's laws allow for easier or more flexible recognition than the Convention requires, parties can use those laws. This "minimum protection" idea makes the Convention act as a starting point, not a strict rule, allowing each country to have its own rules that are supportive of arbitration. Because of this, the US court did not accept the Egyptian decision. The dispute itself arose from a contract between Chromalloy Aeroservices, a U.S. company, and the Arab Republic of Egypt concerning the maintenance and repair of military helicopters, which ultimately led to arbitration and subsequent enforcement proceedings in the United States (Ramaswamy, 2002).

The contract had a clause that required disputes to be settled through arbitration following the rules of the Cairo Regional Centre for International Commercial Arbitration. The group of people chosen to resolve the dispute, called the arbitral tribunal, decided that Egypt should pay money because they broke the contract. Later, the Egyptian courts where the arbitral tribunal rejected the decision, saying the tribunal had gone beyond its authority under Egyptian law. Chromalloy then asked a U.S. court in Washington, D.C. to make the decision valid under the New York Convention. The main question the U.S. court had was whether a decision that was set aside in the country where the arbitration took place could still be made valid in the U.S. The court decided that the decision could still be enforced. They explained that the New York Convention allows for some reasons to refuse enforcement, and the Egyptian cancellation did not stop the U.S. court from making the decision valid. The court also said that the U.S. strongly supports arbitration and that the parties wanted a final and binding decision through this process.

Seventeen years after the *Chromalloy case*, a court in the *Pemex case* dealt with similar issues about enforcing an arbitral award that had been set aside. Although the court did not use the same Article VII analysis from *Chromalloy* — because this case was under the Panama Convention, which does not have a similar rule—it still considered *Chromalloy* to be important. The court mentioned past cases that said national courts should be careful when accepting foreign decisions to cancel awards that go against basic fairness. In the end, the court used this reasoning to decide that the Mexican court's cancellation of the award was so unfair that it should not be recognized, which meant the award could still be enforced in the United States (Brennan, n.d.).

The *Pemex* court did not follow exactly the same reasoning used in the Chromalloy *case*, but it agreed that the original case is still valid. It also said that the decision probably will not lead to many similar cases in the U.S, because the situation in that case was very special and different. Still, the court suggested that changing the outcome would have been hard to explain under the facts. In doing so, it brought back a decision that was once seen as unusual, showing that parties involved in arbitration are still bound by the courts where arbitration took place, even if the award is set aside everywhere. The court also pointed out that international agreements on arbitration offer ways to handle tricky situations like this. Importantly, in August 2014, the Mexican courts didn't succeed in canceling $500 million award. To reach this decision, the court looked at two important cases that show courts should be cautious about accepting annulment decisions that go against basic fairness. Using this reasoning, the Pemex court found that the Mexican court's decision to cancel the award was so unfair that it should not be accepted, making it possible to enforce the award in the U.S.

Conclusion

The Pemex and Chromalloy cases show a growing pattern in U.S. courts to uphold arbitral awards even when they have been set aside at the original arbitration location. This trend makes arbitration more effective, but it can also be viewed as reducing the respect given to foreign court decisions, which usually receive some level of consideration under principles of international comity and fairness. The prolonged litigation—spanning nearly two decades and involving multiple proceedings—demonstrates how uncertainty over the status of annulled awards can undermine the finality and speed that arbitration is intended to provide. The justification often advanced for this more interventionist approach is that foreign annulment decisions may be disregarded only where they appear “suspicious,” meaning procedurally questionable or inconsistent with fundamental fairness.

Another question here is whether international commercial arbitration is regarded as delocalized dispute resolution mechanism? What if it leads to efficiency-driven “competition” among legal systems? Can those transnational decisions truly be effective? As illustrated in the *Yukos case,* delocalized character of enforcement not always guarantee effectiveness, since Russia has still not paid the compensation. Similarly, *COMMISA v. PEMEX* enforcement of which lasted more than a decade highlights how successful awards may face prolonged enforcement.

However, this standard is highly subjective and risks inconsistent application if used too broadly. On the other hand, courts that adopt new approaches risk forgetting the main purpose of the New York Convention, which is the effective enforcement of foreign arbitral awards. Is it effective to bring these awards into consideration? For this reason, such an approach should only be used in truly exceptional situations where there are clear and serious problems with due process or fairness. Otherwise, international arbitration may lose predictability and neutrality, becoming more exposed to strategic litigation and state influence rather than functioning as a stable and depoliticized dispute resolution mechanism.

Finally, in relation to Uzbekistan the following amendments can be implemented into national legislation. It is necessary to adopt the Regulation “About erroneous practice of Uzbek courts in applying the Convention on the New York Convention 1958.” The Regulation should involve criteria for application of Article V (1) (e) of New York Convention based on current research and international practice. In addition, national courts should consider the binding nature of foreign arbitral award, but should acknowledge their degree of discretionary power. Although the national legislation provides that Court decisions of a foreign state or arbitral awards issued in disputes and other matters arising in the economic sphere may be recognized and enforced in the Republic of Uzbekistan if an international treaty and the legislative acts of the Republic of Uzbekistan provide for the recognition and enforcement of such decisions, it lacks detailed guidance. Last, the legislation should address in which circumstances the set aside foreign arbitral award can be enforced.

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