

**SCIENCE**  
**PROBLEMS.UZ**

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Actual problems of social and humanitarian sciences  
Актуальные проблемы социальных и гуманитарных наук

# Ijtimoiy-gumanitar fanlarning dolzarb muammolari

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**2024**

**SCIENCEPROBLEMS.UZ**

**ИЖТИМОЙ-ГУМАНИТАР ФАНЛАРНИНГ  
ДОЛЗАРБ МУАММОЛАРИ**

*№ S/6 (4) - 2024*

**АКТУАЛЬНЫЕ ПРОБЛЕМЫ СОЦИАЛЬНО-  
ГУМАНИТАРНЫХ НАУК**

**ACTUAL PROBLEMS OF HUMANITIES AND SOCIAL SCIENCES**

**ТОШКЕНТ-2024**

## **БОШ МУҲАРРИР:**

Исанова Феруза Тулқиновна

## **ТАҲРИР ҲАЙЪАТИ:**

### *07.00.00-ТАРИХ ФАНЛАРИ:*

Юлдашев Анвар Эргашевич – тарих фанлари доктори, сиёсий фанлар номзоди, профессор, Ўзбекистон Республикаси Президенти ҳузуридаги Давлат бошқаруви академияси;

Мавланов Уктам Махмасабирович – тарих фанлари доктори, профессор, Ўзбекистон Республикаси Президенти ҳузуридаги Давлат бошқаруви академияси;

Хазраткулов Абдор – тарих фанлари доктори, доцент, Ўзбекистон давлат жаҳон тиллари университети.

Турсунов Равшан Нормуратович – тарих фанлари доктори, Ўзбекистон Миллий Университети;

Холикулов Ахмаджон Боймаҳамматович – тарих фанлари доктори, Ўзбекистон Миллий Университети;

Габриэльян Софья Ивановна – тарих фанлари доктори, доцент, Ўзбекистон Миллий Университети.

Саидов Сарвар Атабулло ўғли – катта илмий ходим, Имом Термизий халқаро илмий-тадқиқот маркази, илмий тадқиқотлар бўлими.

### *08.00.00-ИҚТИСОДИЁТ ФАНЛАРИ:*

Карлибаева Рая Хожабаевна – иқтисодиёт фанлари доктори, профессор, Тошкент давлат иқтисодиёт университети;

Насирходжаева Дилафруз Сабитхановна – иқтисодиёт фанлари доктори, профессор, Тошкент давлат иқтисодиёт университети;

Остонокулов Азамат Абдукаримович – иқтисодиёт фанлари доктори, профессор, Тошкент молия институти;

Арабов Нурали Уралович – иқтисодиёт фанлари доктори, профессор, Самарқанд давлат университети;

Худойқулов Садирдин Каримович – иқтисодиёт фанлари доктори, доцент, Тошкент давлат иқтисодиёт университети;

Азизов Шерзод Ўктамович – иқтисодиёт фанлари доктори, доцент, Ўзбекистон Республикаси Божхона институти;

Хожаев Азизхон Саидалохонович – иқтисодиёт фанлари доктори, доцент, Фарғона политехника институти

Холов Актам Хатамович – иқтисодиёт фанлари бўйича фалсафа доктори (PhD), доцент, Ўзбекистон Республикаси Президенти ҳузуридаги Давлат бошқаруви академияси;

Шадиева Дилдора Хамидовна – иқтисодиёт фанлари бўйича фалсафа доктори (PhD), доцент в.б, Тошкент молия институти;

Шакарров Қулмат Аширович – иқтисодиёт фанлари номзоди, доцент, Тошкент ахборот технологиялари университети

### *09.00.00-ФАЛСАФА ФАНЛАРИ:*

Ҳакимов Назар Ҳакимович – фалсафа фанлари доктори, профессор, Тошкент давлат иқтисодиёт университети;

Яхшиликков Жўрабой – фалсафа фанлари доктори, профессор, Самарқанд давлат университети;

Ғайбуллаев Отабек Мухаммадиевич – фалсафа фанлари доктори, профессор, Самарқанд давлат чет тиллар институти;

Саидова Камола Усканбаевна – фалсафа фанлари доктори, “Tashkent International University of Education” халқаро университети;

Ҳошимхонов Мўмин – фалсафа фанлари доктори, доцент, Жиззах педагогика институти;

Ўроқова Ойсулов Жамолиддиновна – фалсафа фанлари доктори, доцент, Андижон давлат тиббиёт институти, Ижтимоий-гуманитар фанлар кафедраси мудири;

Носирходжаева Гулнора Абдукаххаровна – фалсафа фанлари номзоди, доцент, Тошкент давлат юридик университети;

Турдиев Бехруз Собирович – фалсафа фанлари бўйича фалсафа доктори (PhD), доцент, Бухоро давлат университети.

### *10.00.00-ФИЛОЛОГИЯ ФАНЛАРИ:*

Ахмедов Ойбек Сапорбаевич – филология фанлари доктори, профессор, Ўзбекистон давлат жаҳон тиллари университети;

Кўчимов Шухрат Норқизилевич – филология фанлари доктори, доцент, Тошкент давлат юридик университети;

Ҳасанов Шавкат Аҳадович – филология фанлари доктори, профессор, Самарқанд давлат университети;

Бахронова Дилрабо Келдиёровна – филология фанлари доктори, профессор, Ўзбекистон давлат жаҳон тиллари университети;

Мирсанов Ғайбулло Қулмуродович – филология фанлари доктори, профессор, Самарқанд давлат чет тиллар институти;

Салахутдинова Мушарраф Исамутдиновна – филология фанлари номзоди, доцент, Самарқанд давлат университети;

Кучкаров Раҳман Урманович – филология фанлари номзоди, доцент в/б, Тошкент давлат юридик университети;

Юнусов Мансур Абдуллаевич – филология фанлари номзоди, Ўзбекистон Республикаси Президенти ҳузуридаги Давлат бошқаруви академияси;

Саидов Улугбек Арипович – филология фанлари номзоди, доцент, Ўзбекистон Республикаси Президенти ҳузуридаги Давлат бошқаруви академияси.

#### 12.00.00-ЮРИДИК ФАНЛАР:

Аҳмедшаева Мавлюда Ахатовна – юридик фанлар доктори, профессор, Тошкент давлат юридик университети;

Мухитдинова Фирюза Абдурашидовна – юридик фанлар доктори, профессор, Тошкент давлат юридик университети;

Эсанова Замира Нормуратовна – юридик фанлар доктори, профессор, Ўзбекистон Республикасида хизмат кўрсатган юрист, Тошкент давлат юридик университети;

Ҳамроқулов Баҳодир Мамашарифович – юридик фанлар доктори, профессор в.б., Жаҳон иқтисодиёти ва дипломатия университети;

Зулфиқоров Шерзод Хуррамович – юридик фанлар доктори, профессор, Ўзбекистон Республикаси Жамоат ҳавфсизлиги университети;

Хайитов Хушвақт Сапарбаевич – юридик фанлар доктори, профессор, Ўзбекистон Республикаси Президенти ҳузуридаги Давлат бошқаруви академияси;

Асадов Шавкат Ғайбуллаевич – юридик фанлар доктори, доцент, Ўзбекистон Республикаси Президенти ҳузуридаги Давлат бошқаруви академияси;

Утемуратов Махмут Ажимуратович – юридик фанлар номзоди, профессор, Тошкент давлат юридик университети;

Сайдуллаев Шахзод Алиханович – юридик фанлар номзоди, профессор, Тошкент давлат юридик университети;

Ҳакимов Комил Бахтиярович – юридик фанлар доктори, доцент, Тошкент давлат юридик университети;

Юсупов Сардорбек Баходирович – юридик фанлар доктори, доцент, Тошкент давлат юридик университети;

Амиров Зафар Актамович – юридик фанлар бўйича фалсафа доктори (PhD), Ўзбекистон Республикаси Судьялар олий кенгаши ҳузуридаги Судьялар олий мактаби;

Жўраев Шерзод Юлдашевич – юридик фанлар номзоди, доцент, Тошкент давлат юридик университети;

Бабаджанов Атабек Давронбекович – юридик фанлар номзоди, доцент, Тошкент давлат юридик университети;

Раҳматов Элёр Жумабоевич – юридик фанлар номзоди, Тошкент давлат юридик университети;

#### 13.00.00-ПЕДАГОГИКА ФАНЛАРИ:

Хашимова Дильдархон Уринбоевна – педагогика фанлари доктори, профессор, Тошкент давлат юридик университети;

Ибрагимова Гулнора Хавазматовна – педагогика фанлари доктори, профессор, Тошкент давлат иқтисодиёт университети;

Закирова Феруза Махмудовна – педагогика фанлари доктори, Тошкент ахборот технологиялари университети ҳузуридаги педагогик кадрларни қайта тайёрлаш ва уларнинг малакасини ошириш тармоқ маркази;

Каюмова Насиба Ашуровна – педагогика фанлари доктори, профессор, Қарши давлат университети;

Тайланова Шоҳида Зайниевна – педагогика фанлари доктори, доцент;

Жуманиёзова Муҳайё Тожиевна – педагогика фанлари доктори, доцент, Ўзбекистон давлат жаҳон тиллари университети;

Ибрахимов Санжар Урунбаевич – педагогика фанлари доктори, Иқтисодиёт ва педагогика университети;

Жавлиева Шахноза Баходировна – педагогика фанлари бўйича фалсафа доктори (PhD), Самарқанд давлат университети;

Бобомуротова Латофат Элмуродовна – педагогика фанлари бўйича фалсафа доктори (PhD), Самарқанд давлат университети.

#### 19.00.00-ПСИХОЛОГИЯ ФАНЛАРИ:

Каримова Василя Маманосировна – психология фанлари доктори, профессор, Низомий номидаги Тошкент давлат педагогика университети;

Ҳайитов Ойбек Эшбоевич – Жисмоний тарбия ва спорт бўйича мутахассисларни қайта тайёрлаш ва малакасини ошириш институти, психология фанлари доктори, профессор

Умарова Навбахор Шокировна – психология фанлари доктори, доцент, Низомий номидаги Тошкент давлат педагогика университети, Амалий психологияси кафедраси мудири;

Атабаева Наргис Батировна – психология фанлари доктори, доцент, Низомий номидаги Тошкент давлат педагогика университети;

Шамшетова Анжим Карамаддиновна – психология фанлари доктори, доцент,

Ўзбекистон давлат жаҳон тиллари университети;

Қодиров Обид Сафарович – психология фанлари доктори (PhD), Самарканд вилоят ИИБ Тиббиёт бўлими психологик хизмат бошлиғи.

#### 22.00.00-СОЦИОЛОГИЯ ФАНЛАРИ:

Латипова Нодира Мухтаржановна – социология фанлари доктори, профессор, Ўзбекистон миллий университети кафедра мудири;

Сеитов Азамат Пўлатович – социология фанлари доктори, профессор, Ўзбекистон миллий университети;

Содиқова Шоҳида Мархабоевна – социология фанлари доктори, профессор, Ўзбекистон халқаро ислом академияси.

#### 23.00.00-СИЁСИЙ ФАНЛАР

Назаров Насриддин Атақулович – сиёсий фанлар доктори, фалсафа фанлари доктори, профессор, Тошкент архитектура қурилиш институти;

Бўтаев Усмонжон Хайруллаевич – сиёсий фанлар доктори, доцент, Ўзбекистон миллий университети кафедра мудири.

### ОАК Рўйхати

Мазкур журнал Вазирлар Маҳкамаси ҳузуридаги Олий аттестация комиссияси Раёсатининг 2022 йил 30 ноябрдаги 327/5-сон қарори билан тарих, иқтисодиёт, фалсафа, филология, юридик ва педагогика фанлари бўйича илмий даражалар бўйича диссертациялар асосий натижаларини чоп этиш тавсия этилган илмий нашрлар рўйхатига киритилган.

**Ижтимоий-гуманитар фанларнинг долзарб муаммолари**” электрон журнали 2020 йил 6 август куни 1368-сонли гувоҳнома билан давлат рўйхатига олинган.

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#### Таҳририят манзили:

100070. Тошкент шаҳри, Яккасарой тумани, Кичик Бешёғоч кўчаси, 70/10-уй. Электрон манзил:

[scienceproblems.uz@gmail.com](mailto:scienceproblems.uz@gmail.com)

#### Боғланиш учун телефонлар:

(99) 602-09-84 (telegram).

**12.00.00 – YURIDIK FANLAR**

*Умарханова Дилдора Шарипхановна*

ЕВРОПА МИНТАҚАСИДА ЖИНОЯТ ИШЛАРИ БЎЙИЧА ХАЛҚАРО ҲАМКОРЛИКНИНГ  
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## **07.00.00 – TARIX FANLARI**

*Elmurotov Ortiq Oltiboy o'g'li*

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## **MECHANISM OF ENFORCING ICA AWARDS IN UZBEKISTAN**

**Juraeva Asal**

Lecturer at Administrative and financial law department Tashkent state university of law  
[asalxon1311@gmail.com](mailto:asalxon1311@gmail.com)

**Abstract.** According to the procedural legislation of Uzbekistan, a party who wants to enforce an ICA award has to submit application (in a form established by law) to an appropriate state court of Uzbekistan in line with the general rule of jurisdiction with the necessary documents attached to it. The analysis of the norms of national legislation and 14 bilateral treaties on mutual legal assistance of Uzbekistan did not reveal fundamental differences in the procedure for recognizing and enforcing arbitral awards.

**Keywords:** arbitration; international commerce; public policy

## **O'ZBEKISTONDA ICA QARORLARINI QO'LLASH MEXANIZMI**

**Jurayeva Asal**

Toshkent davlat yuridik universiteti o'qituvchisi

**Annotatsiya.** O'zbekiston protsessual qonunchiligiga ko'ra, ICA qarorini ijro etishni istagan tomon umumiy yurisdiksiya qoidalariga muvofiq O'zbekiston Respublikasining tegishli davlat sudiga ariza bilan (qonun bilan belgilangan shaklda) zarur hujjatlar ilova qilingan holda murojaat qilishi shart. Milliy qonunchilik normalari va O'zbekistonning o'zaro huquqiy yordam to'g'risidagi 14 ta ikki tomonlama shartnomalari tahlili arbitraj qarorlarini tan olish va ijro etish tartibi tahlil qilingan.

**Kalit so'zlar:** arbitraj; xalqaro savdo; davlat siyosati

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The norms and provisions of international and regional agreements on the enforcement of ICA awards are incorporated into the national procedural legislation and state courts strictly follow the provisions of the procedural legislation of Uzbekistan. According to the procedural legislation of Uzbekistan, a party who wants to enforce an ICA award has to submit application (in a form established by law) to an appropriate state court of Uzbekistan in line with the general rule of jurisdiction with the necessary documents attached to it. Failure to adhere to requirements for the application form or list of attached documents is the basis for rejecting the application.

As a rule, an application for the enforcement of an ICA award is considered in a national court proceeding. When considering a case, courts examine the existence of grounds for declining the enforcement. Moreover, courts are not entitled to reconsider arbitral awards on merits. After reviewing a case, state courts of Uzbekistan issue a ruling to recognize and enforce the award or to refuse the recognition and execution of the award.

Applications for the enforcement of an ICA award is considered by economic and civil courts of Uzbekistan. Generally, the procedure for considering such applications is identical with following differences:

- the economic courts of Uzbekistan consider application for the enforcement of awards adopted in disputes arising from economic relations. [1; p.23] The civil courts of Uzbekistan consider applications related to civil cases or criminal cases in terms of compensation for damages; [2; p.65]
- the economic courts of Uzbekistan consider applications in question within a period not exceeding six months while civil courts review such applications within a period not exceeding one month from the date of its receipt by courts;
- non-entry of the award into legal force under the law of the state of origin is the ground for refusing the recognition and enforcement by both economic and civil courts of Uzbekistan. Nevertheless, the economic procedural legislation allows for the possibility of derogation from this rule, in cases where the decision is subject to execution before the entry into force. There is no such exception in the civil procedural legislation.

The analysis of the norms of national legislation and 14 bilateral treaties on mutual legal assistance of Uzbekistan did not reveal fundamental differences in the procedure for recognizing and enforcing arbitral awards. In most cases, bilateral agreements on mutual legal assistance provide a procedure that is generally correspond to the above procedure for the enforcement.[3]

Overall, the enforcement of ICA awards is carried out by economic courts of the Republic of Uzbekistan. In the **Table 1** below, there is a statistical data on recognition and enforcement of arbitral awards considered by economic courts of Uzbekistan. Through these statistics one can see that in most cases economic courts satisfied the application for the enforcement but there is still a room for the conflict generated by PP. In addition, in **Table 2** there is an information of cases according to a country where an award or court decision rendered and the enforcement sought in Uzbekistan. Unsurprisingly, one can see that the most of this type of cases are come from post-Soviet countries.

Table 1. *Statistics of cases on recognition and enforcement of arbitral awards considered by economic courts of Uzbekistan [4]*

Reporting period	Number of cases handled	Status		left consideration	without proceedings terminated
		satisfied	denied		
2015	9	7	1	-	2
2016	13	13	-	-	-
2017	4	4	-	-	-
<b>Total:</b>	<b>26</b>	<b>23</b>	<b>1</b>	<b>-</b>	<b>2</b>

Table 2. *Decisions of foreign courts and arbitral awards considered by economic courts of Uzbekistan according to*

Country	Number of cases
Russia	59
Ukraine	37

Kazakhstan	5
Belarus	3

Applications for the enforcement of an ICA award should be submitted by a party to the second-tier economic courts which means the courts of the Republic of Karakalpakstan, 12 regions and Tashkent city at a place of residence of a debtor or, if it is unknown, at the place of state registration of a debtor. It should be noted that the application is submitted by an interested person, as a rule, the lawyer of one of the parties. International arbitration center or tribunal itself does not forward an award to any state court for enforcement. Such applications should be submitted in writing and must be signed by an applicant or his representative, and should include contact details.

There was a case where the enforcement of an award is declined. In the *Romak v. Uzdun* case [5] on 2 October 2000, Tashkent City Economic Court decided to reject the application for the enforcement of the GAFTA award on two grounds: first, the application did not fulfil the requirements of Art. IV of NYC which states a party has to provide an official translation (in Uzbek language) of an award and contract. In this case, the claimant did not provide the translation of relevant documents. Second, Romak did not present an evidence that the Uzdun was notified about the appointment of arbitrators as stipulated in Art. V (i)(b) of NYC. Romak appealed the Economic Court's decision. On 24 November 2000, the appellate instance of the Tashkent City Economic Court affirmed the decision of the lower court. Interestingly, frustrated with the decision of Uzbek court and without making any attempt to perfect and resubmit the application to the Higher Economic Court of Uzbekistan, the claimant turned to French courts and investment arbitration respectively which ended without a feasible solution.

Generally, parties of international business transactions prefer to the well-recognized and efficient alternative method, rather than the traditional national court in settling their dispute. International commercial arbitration is one of such alternative dispute resolution system adopted by international businessmen. According to statistics, in the single year of 2018, 842 new cases were registered to International Chamber of Commerce (ICC), one of the world's famous arbitral institution, which consist merely a tip of the iceberg of international commercial arbitration world.[6; p. 20]

When parties run to international commercial arbitration, one unavoidable question faced by them is which law will be applied in deciding their disputes. Since the transactions between the parties are international, the law of either party can be potentially applied in their transactions if without specification in advance by the parties. Therefore, in international scenery, it is an accepted practice that the parties to an international deal specify in the contract the applicable law to their transaction, which is called choice of law. By choice of law in advance, the parties to a transaction will make sure the rules of law they should abide by during their whole transaction, eliminate uncertainty on their right and obligation under certain contract at large, and avoid future dispute on the applicable rules of law. There are four types of various matters that arise in the course of choice of law in international commercial arbitration: (i) applicable substantive law of a case; (ii) procedural law applicable to a case; (iii) applicable law that governs international arbitration agreement; (iv) conflict of laws. Therefore, it is very critical for the parties to carefully scrutinize all aspects of a case and decide on applicable law.

When deciding on the applicable law, it is important for the parties to pay attention to the issue of public policy. Public policy is defined as a core interest of a sovereignty. According

to international law, it is a well-established rule that the sovereignty of a country has the authority in refusing the acceptance and enforcement of any foreign judicial decisions if the latter violates its public policy. This rule applies to international arbitration award too, which is evidenced by the stipulation of Article V of New York Convention. According to this Article V, if an arbitration award issued in a foreign state were infringe with the public policy of a state, the latter would refuse to recognize the award's validation in its territory. Furthermore, in national conflict of law, most countries acknowledge that disregarding public policy of a country would result to an invalidity of the agreement on choice of law, which will further endanger the effectiveness of the whole contract. Taking all those into consideration, it is critical for parties to an international business to pay close attention to the influence of public policy when negotiating the choice of law clause in their arbitration agreement. [7]

The importance of public policy issue can also be demonstrated in the following examples. In a German arbitration, an arbitral tribunal applies German law for the penalty provision of an agreement and renders an award. Nonetheless, statutes and case law in US provide that such penalty is unlawful and against public policy of the US. Improper attitude towards public policy of a forum declines the positive effects of choice of law clause. The national court deny the recognition and enforcement of a final award if it contradicts to the public policy of a state. (*Parsons & Whittemore case*; [8] *Waterside ocean navigation Co., Inc. v. Int'l Navigation Ltd., case*) [9] Another example is in *Vivendi – Elektrim* dispute where the arbitration proceedings conducted in one state while insolvency proceedings occurred in another country, the obstacles created by parallel arbitration and insolvency proceedings require careful examination of public policy doctrine in complicated cross-border disputes. [10]

Public policy in choice of law in international commercial arbitration has been one a heated debated theoretical issue among experts and researchers worldwide. The main issues have focused on the legitimacy, invalidity of the agreement and arbitrability of a dispute due to ill-defined doctrine of public policy, problems related to jurisdiction of the tribunal, etc. Besides of them, public policy of a forum put into question the recognition and enforcement of a final award. There have been a number of researches relating to public policy and choice of law matters. However, public policy in the context of choice of law in international commercial arbitration requires more profound research and precise legal framework that can assist possible complexities.

Uzbekistan is a Central Asian country, which, like most of the rest countries in the world, has accepted the institution of arbitration in solving commercial disputes. However, since the commercial arbitration in Uzbekistan is in an infant stage, plus other reasons, the legislation and rules on arbitration in Uzbekistan are not so advanced with certain flaws of law need overhaul and improvement. One of such flaws lies in the policy on public policy in choice of law. Thus, this research pays certain attention on the legislation and practice of Uzbekistan on public policy in choice of law.

By analyzing legislation and judicial practice of Uzbekistan, and comparing with international development, the author concludes that the performance of the Uzbekistan judicial review process of international commercial awards in determining and applying public policy is inadequate. From the establishment of the international commercial arbitration institution in Uzbekistan, the review of the judicial practice has demonstrated the limited progress in identifying and applying the doctrine of public police. The principal questions, *i.e.*,

nature of public policy both in international and domestic scale, main feature of public policy and judicial review limitations, have not been adequately answered. Inappropriate and controversial judicial decisions are the results of lack of experience of the Uzbekistan courts in dealing with public policy exception in choice of law. Further reforms are required to be taken by the Uzbekistan legal system that will assist to develop more detailed concept of the public policy in choice of law. More importantly, all steps taken should be in accordance with the global trend and the recent development of the international arbitration practice of leading jurisdictions.

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тумани, Кичик Бешёғоч кўчаси, 70/10-  
уй. Электрон манзил:

[scienceproblems.uz@gmail.com](mailto:scienceproblems.uz@gmail.com)

**Боғланиш учун телефонлар:**

(99) 602-09-84 (telegram).