Dispute Resolution
Around the World

Uzbekistan
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# Table of Contents

1. Legal System .......................................................................................... 1  
2. Court System .......................................................................................... 1  
3. Legal Profession ..................................................................................... 4  
4. Litigation .................................................................................................. 4  
5. International Arbitration ......................................................................... 8  
6. Alternative Dispute Resolution .............................................................. 11  

Key Contact .................................................................................................. 13
1. Legal System

Uzbekistan is a civil law jurisdiction and its legal system is based on legislation made by Parliament and the executive bodies: the President, Cabinet of Ministers, various ministries and regional mayorats. The President is the Head of State and head of the executive authority. The President issues decrees, resolutions and ordinances binding on the entire territory of the country. Executive authority is exercised by the Cabinet of Ministers which is composed of the Prime Minister, his deputies, ministers, chairmen of state committees and the head of the government of the autonomous Republic of Karakalpakstan, which is situated in the northwest Uzbekistan. The Cabinet of Ministers issues resolutions and ordinances binding on all bodies, enterprises, institutions, organizations, officials and citizens of the country. The supreme state representative body is Oliy Majlis (Parliament), which exercises legislative power and consists of two chambers: the Legislative Chamber (the lower chamber), and the Senate (the upper chamber). The Legislative Chamber consists of one hundred and twenty deputies elected by territorial constituencies on a multiparty basis. Out of 100 members of the Senate, sixteen are appointed by the President on the merit of significant practical experience and expertise in the sciences, arts, manufacturing and other spheres of state and public activity. The other 86 senators are elected by 14 regional representative bodies, each being represented by 6 senators.

2. Court System

The upper level of the court system consists of:

(a) the Constitutional Court, which renders decisions on the constitutionality of acts of the legislative and executive branches;

(b) the Supreme Court, which acts as both a Court of First Instance and an appellate court for civil and criminal cases
and which analyzes court practice and oversees work of the lower level courts; and

(c) the High Economic Court, which has the same functions as the Supreme Court but deals exclusively with commercial cases involving legal entities (foreign and local) and individual entrepreneurs.

The lower level of the Uzbek court system includes:

(a) regional, city, and inter-district courts for civil cases;
(b) regional, city and district courts for criminal cases;
(c) regional and city economic courts, and
(d) military courts.

The autonomous Republic of Karakalpakstan also has a Supreme Court and an economic court, as well as city, inter-district and district courts for civil and criminal cases. The Constitutional Court of Uzbekistan is elected from political and legal scholars and consists of the Chairman, Deputy Chairman and judges, including a representative of the Republic of Karakalpakstan. The Constitutional Court has the power to: determine whether laws and resolutions of the chambers of the Parliament, laws and constitution of the Republic of Karakalpakstan, decrees of the President, enactments of the government and local bodies of state authority, interstate treaties and other obligations of the Republic of Uzbekistan are in conformity with the Constitution; and interpret the norms of the Constitution and the laws. The judgments of the Constitutional Court take effect upon publication. They are final and not subject to appeal.

Courts of First Instance

Criminal and Administrative Cases

District courts for criminal cases examine all criminal and administrative cases except those in the exclusive jurisdiction of the
higher courts. The higher courts may examine cases which are within the jurisdiction of courts of first instance and also have exclusive jurisdiction in relation to other certain cases such as murder, rape and terrorism.

Civil Courts

Inter-district (lowest), city and regional civil courts have jurisdiction over the following matters:

(a) cases where at least one of the parties is individual;

(b) determination of the legal capacity of individuals;

(c) declarations of property ownership.

There are three types of procedures used by the civil courts, namely:

(a) a procedure for making a complaint against state bodies;

(b) a lawsuit procedure (for cases relating to employment, housing, family and civil relations);

(c) a special procedure (for cases relating to the determination of legal capacity of individuals, declarations of the ownership of property etc.).

Economic Courts

All disputes relating to commercial activities between commercial legal entities and individual entrepreneurs and bankruptcy matters are heard by the regional economic courts. The Supreme Economic Court has exclusive jurisdiction over cases related to commercial disputes between local and state bodies and issues relating to the legality of state acts. If a contract between two legal entities (local and/or foreign) is governed by Uzbekistan law and is silent on the dispute resolution forum, then the economic court in the appropriate region of Uzbekistan will hear the dispute upon the petition of one of the parties. The Economic Procedure Code provides that foreign parties
have the same procedural rights and duties as Uzbek parties in matters before an Uzbek court.

3. **Legal Profession**

An advocate may act on behalf of a client in court after passing the bar exam and acquiring a license from the regional office of the Ministry of Justice. Only citizens of Uzbekistan with a law degree are eligible to sit for the bar exam. As soon as an attorney is licensed he can represent clients before the Uzbek courts. The current legislation provides that legal services can be performed by a local attorney board (collegium), solo practitioner (bureau) or a law firm registered with the Ministry of Justice. The majority of local law firms are small and have only about 2-4 attorneys. However any person can act on behalf of another entity in civil or commercial matters upon getting appropriate power of attorney from the represented entity. Therefore in practice many in-house lawyers act in court proceedings without an advocate license.

4. **Litigation**

**Commencing Proceedings**


**Civil Cases**

Matters related to family, contracts, property, employment, housing and other civil law issues arising between persons or between a person and a legal entity are heard in appropriate inter-district, city or regional civil courts. A judge is assigned to each case and will decide if a complaint is admissible and will investigate the facts during meetings with the claimant and the defendant at the pre-trial stage.
Economic Disputes

Lawsuits are filed with the economic court of the relevant region and are accompanied by evidence, copies of which are sent to the defendant along with confirmation of payment of the state fee. The sole judge will determine whether a case is admissible within 10 days. A judge must adjudicate the claim within one month from the date when he decided on the admissibility of the case. In extraordinary cases this period may be extended to two months but generally a case is heard within one day.

Court Fees

Court fees in Economic disputes are calculated on the basis of the value of the claim. The fee varies from 3% for claims worth less than €500, to 2% for claims over that amount but less than €5,000 and to 1% for claims over that amount. For certain specific disputes, such as related to non-property claims, bankruptcy proceedings, contract conclusion, alteration and dissolution issues, special fixed fees, linked to the amounts of minimum monthly wages (the “MMW”)\(^1\), have been established.

Defence

If the defendant contests the claim he or she must serve a defence before the trial along with evidence showing that it was served on the other party. If the defendant raises a counterclaim, the facts supporting such claim and the remedy sought should be set out.

Default Judgment

If a defendant fails to serve a defence or does not attend a court hearing, and the claimant does not object to judgment in default, the court may adopt default judgment.

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\(^1\) As of 1 September 2008, MMW has been set in the amount of 25,040 Uzbek soums (approximately equivalent to €12). However the amount of MMW are revised by the government once or twice a year.
Preliminary Hearing

Once the defence has been served, the court is likely to convene a hearing to evaluate the possibility of settlement and if no settlement is reached to give directions for the case. This will include orders regarding the remaining procedural steps in the case, such as disclosure of documents, witness statements, expert evidence and setting the date for the hearing. These procedures are applicable to both civil cases and economic disputes.

Interim Measures

A claimant can apply to the courts for any of the following measures to secure the claim:

(a) freezing the debtor’s property or money;
(b) prohibiting the debtor from performing certain actions;
(c) prohibiting other persons from transferring property to the debtor or performing other obligations to the debtor;
(d) freezing the sale of property in case of claim for releasing this property from arrest;
(e) suspending collection of court orders contested by the debtor.

The court may combine several measures at once to secure the claim.

Disclosure of Documents

There is a general obligation to disclose all relevant documents. A defendant has the right to inspect and review the claimant’s documents and each party can request the court to order the delivery of certain documents to it that are under the sole control of the other side. Parties must submit their complete case with all relevant evidence on which they rely within a time period set by the court.
Witnesses

Witnesses attend court hearings on a written order by the court. In complex cases either or both of the parties may request the appointment of an expert witness, who has special knowledge on the issue in question. The main duty of expert witnesses is to provide an independent and comprehensive report on the issue in question. Both ordinary witnesses and court appointed expert witnesses can be cross-examined by each party’s lawyers in the hearing. The party losing the case will ultimately be ordered to pay the fees and other disbursements related to the appointment of the expert witness.

The Trial

A judge must adjudicate the claim within one month of the date he decided the case was admissible. In exceptional cases this term might be extended to two months. The judge then sets a date for a first court hearing and will inform the parties in writing about the agenda for this hearing, and the date and place of the trial. The judge adjudicates on the evidence put before him and is required to investigate facts. He can accept or reject evidence, but must provide reasonable arguments for doing so or else his decision is likely to be appealed.

Recovering Legal Costs

Uzbek law defines legal costs as consisting of state fees, expenses related to witnesses, and charges for conducting tests as well as other expenditures in connection with the litigation, such as the cost of paying for lawyers. Legal costs are awarded to the parties in proportion to the sum awarded to each of them, with some exceptions.

Appeals

Judgments of the economic court are enforceable 30 days after issue. During this period the judgment may be appealed in an appellate instance of the same court. The court deciding on the appeal will review the case and reassess the decision of the lower court. A one month period is given to the court to determine whether the judgment
has to be amended, nullified or upheld in full or in part. Decisions of the appellate court, and enforceable judgments of the first instance court, can be appealed in cassation within one month of the date of issue to the court that took the decision. Such court must transfer the cassation appeal to the higher court within 5 days from receipt of such appeal. The Supreme Economic Court will examine the case on cassation appeal within 30 days of receiving the claim. Certain officials such as the Prosecutor General are authorized to appeal enforced judgments before the Supreme Economic Court in the special order of supervision appeal.

**Enforcement of Judgments**

The prevailing party can demand payment (or other enforcement) from the other side within six months of sending the writ of execution to a bailiff. The creditor can obtain money owed to him by the debtor in a number of ways, including through third party debt orders.

**Recognition and Enforcement of Foreign Judgments**

Judgments of most foreign courts are not enforceable in Uzbekistan. A foreign court judgment will be enforced only if the court is from a country with which Uzbekistan has a treaty calling for mutual recognition of court judgments of member states. Uzbekistan has such a treaty only with certain countries of the former Soviet Union, Turkey, Bulgaria, Czech Republic and China.

**5. International Arbitration**

With regard to disputes which arise in connection with foreign investments or related activities, the disputing parties have a choice of the following dispute resolution mechanisms: negotiation, dispute settlement by an Uzbek economic court, arbitration by local referees’ court, or international arbitration. If parties elect to resolve their dispute in an Uzbek court, they nonetheless may switch to arbitration at any time before the court renders a decision. Foreign contracting parties typically insist on a contract clause specifying that binding
arbitration in a third country will be the exclusive means of resolving disputes. Uzbekistan has signed and ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958. A decree of the Supreme Economic Court called “On Court Practice of Enforcement of Decisions and Arbitral Awards of the Foreign Courts (Arbitrations)” dated 26 March, 1998 provides that foreign arbitral award will be enforced by the courts of Uzbekistan if the conditions specified in the applicable treaty are met. Uzbekistan is also a party to several investment treaties with foreign countries (including the United Kingdom, South Korea and Turkey) that contain dispute resolution clauses. In addition, Uzbekistan has signed and ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Treaty.) 1965. Thus certain disputes with the Republic of Uzbekistan may be eligible for arbitration under ICSID Treaty auspices.

Role of the State Courts in Arbitration

The role of the Uzbek courts in arbitration is limited. Legislation prevents state courts from hearing a case if an arbitral tribunal has jurisdiction. In limited circumstances courts can intervene and refuse to issue a writ of execution on an arbitral award, if such judgment is not be recognized and enforced in Uzbekistan, or if such matter is within exclusive jurisdiction of the Economic court of Uzbekistan.

Enforcement of Arbitral Awards

As stipulated by the New York Convention, the party applying for recognition and enforcement of an arbitral award must, at the time of the application, submit:

(a) an authenticated original award or a certified copy; and

(b) the original agreement referred to or a certified copy. A decision to declare an arbitral award (including one made by the foreign state court) enforceable is made by the Economic court which issues a writ of execution.
Please note that it is important to make sure that such documents or their official translation into state Uzbek language should be provided to the appropriate court for enforcement.

Recognition and enforcement of the award may be refused at the request of the party against whom it is invoked only if that party provides the economic court with proof of the following:

(a) that the parties to the agreement were, under the law applicable to them, under some incapacity, or the agreement is not valid under the law to which the parties have subjected it or, failing any indication thereof, under the law of the country where the award was made; or

(b) that the party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present its case; or

(c) the award deals with a matter not contemplated by or not falling within the terms of submission to arbitration, or it contains decisions on matters beyond the scope of submission to arbitration; or

(d) the composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties, or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or

(e) 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.
Recognition and enforcement of an arbitral award may also be refused by the Uzbek court if the court finds that:

(a) the subject matter of the dispute cannot be settled by arbitration under the law of that country; or

(b) recognition or enforcement of the award would be contrary to the public policy of Uzbekistan.

6. Alternative Dispute Resolution

On 16 October 2006 a new law “On Referees Court” has been adopted, which provides for an alternative to state courts, means of dispute resolution between legal entities within Uzbekistan. According to this Law, the referees’ court can be permanent, created by a local legal entity, or temporary, established solely for the purpose of resolving a dispute between the parties having an agreement to this regard. Both permanent and temporary referees courts and judges must be registered with the Ministry of Justice. Besides other general capacity, neutrality and good moral standing criteria, only a citizen of Uzbekistan, having reached an age of 25 is eligible to become a referee judges. At least the sole referee judge or the chairman of multimember referee court must have a legal education. Referees court must adjudicate the dispute in accordance with the norms of Uzbek law, agreements between disputing parties and business practices. Parties may submit their dispute to referees court at any moment before the competent court of Uzbekistan issues a decision.

The winning party may apply to the competent Economic court of Uzbekistan to enforce the decisions of referees’ court. The competent Economic court may annul the decision of referees court or deny issuing enforcement order in the following cases:

- the agreement to submit to referees’ court is invalid under the law;

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2 Referees court is means of local arbitration between Uzbekistani legal entities within Uzbekistan.
• the decision of the referees’ court has been issued on the dispute not provided for by the agreement to submit to referees’ court, or not falling within the terms of such agreement, or contains conclusions on issues, out of the scope of such agreement;

• the decision of the referees court has been issued in violation of Uzbek law and other norms applicable to such dispute, as provided by Uzbek law;

• establishment of the referees’ court, selection of the judges or conduct of the proceedings have been done in violation of the Law on Referees’ Court or rules governing such referees’ court;

• the party loosing the dispute, have not been duly notified of the time, place and judges of the referees’ court;

• the disputed issue may not be subject to review by the referees court under the law.

As of now, a few referees courts have been established in various regions of Uzbekistan, the most notable of them being referees courts established by Chamber of Commerce and Industry of the Republic of Uzbekistan.
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