

**TOSHKENT DAVLAT YURIDIK UNIVERSITETI HUZURIDAGI ILMIY
DARAJALAR BERUVCHI DSc.07/03.06.2023.Yu.22.04 RAQAMLI ILMIY
KENGASH**

TOSHKENT DAVLAT YURIDIK UNIVERSITETI

RAHMONOV JALOLIDDIN AKMALOVICH

**XALQARO HUQUQDA INVESTORLARNING HUQUQ VA
MAJBURIYATLARINI TA'MINLASH: DOLZARB MUAMMOLAR VA
RIVOJLANISH ISTIQBOLLARI**

12.00.10 - Xalqaro huquq

**Yuridik fanlar bo'yicha falsafa doktori (PhD) dissertatsiyasi
AVTOREFERATI**

Toshkent – 2025

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Falsafa doktori (PhD) dissertatsiyasi mavzusi O'zbekiston Respublikasi Oliy ta'lim, fan va innovatsiyalar vazirligi huzuridagi Oliy attestatsiya komissiyasida № B2023.3.PhD/Yu1201 raqam bilan ro'yxatga olingan.

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Ilmiy rahbar:

Ismailova Gulnoza Saydig'anixo'jayevna
yuridik fanlar doktori, professor

Rasmiy opponentlar:

Umarxanova Dildora Sharipxanovna
yuridik fanlar doktori, professor

Yakubxo'jayev Umid Anvarxo'jayevich
yuridik fanlar doktori

Yetakchi tashkilot:

**O'zbekiston Respublikasi Huquqni
muhofaza qilish akademiyasi**

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Dissertatsiya bilan Toshkent davlat yuridik universiteti Axborot-resurs markazida tanishish mumkin (1399-raqam bilan ro'yxatga olingan). (Manzil: 100047, Toshkent shahar, Amir Temur ko'chasi, 13. Tel.: (99871) 233-66-36)

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S.S.Gulyamov

Ilmiy darajalar beruvchi ilmiy kengash raisi,
yuridik fanlar doktori, professor

Sh.N.Raxmanov

Ilmiy darajalar beruvchi ilmiy kengash kotibi,
yuridik fanlar nomzodi, dotsent

D.N.Mahkamov

Ilmiy darajalar beruvchi ilmiy kengash
qoshidagi ilmiy seminar raisi, yuridik fanlar
doktori, professor

KIRISH (yuridik fanlar bo'yicha falsafa doktori (PhD) dissertatsiyasi annotatsiyasi)

Tadqiqot mavzusining dolzarbligi va zarurati. Dunyoda globalizatsiya va integratsiya jarayonlari tobora jadallashib borayotgan bugungi dunyoda, ayniqsa, 2023-yilda to'g'ridan to'g'ri xorijiy investitsiyalarning global oqimi taxminan 1,37 trillion AQSH dollarini tashkil qilganini hisobga olsak, xalqaro huquqda investorlarning huquq va majburiyatlarini ta'minlash masalasi alohida ahamiyat kasb etmoqda.

Jahonda investorlar turli xavf-xatarlarga, jumladan, siyosiy beqarorlik, natsionalizatsiya (xususiy mulkni davlat mulkiga aylantirish), qonunchilikdagi o'zgarishlar va boshqa ko'zda tutilmagan holatlar kabi turli xavf-xatarlarga duch kelishi mumkin. Investorlarni samarali jalb etish va saqlab qolish uchun davlatlar o'z suverenitetini saqlagan holda ularning manfaatlari bilan birga, jamiyat manfaatlarini ham himoya qilish imkonini beruvchi barqaror huquqiy mexanizmlarni yaratishi zarur. Xalqaro ommaviy huquq universal xususiyatga ega bo'lgan ixtisoslashtirilgan xalqaro tashkilotlar doirasida muvofiqlashtiruvchi rol ni bajaradi. Bu rol ahdlashuvchi davlatlarning chet el investitsiyalariga nisbatan investitsion siyosatni olib borishdagi yurisdiksiyalarini kelishib olishda va siyosiy xatarlar yuzaga kelgan taqdirda o'zaro kafolatlarni taqdim etishda aks etadi.

O'zbekiston Respublikasi Prezidenti Sh.M. Mirziyoyev 2024-yil 2-may kuni bo'lib o'tgan III Toshkent xalqaro investitsion forumida so'zlagan nutqida mamlakatimizda investorlarning huquqlarini himoya qilishni kuchaytirishga qaratilgan asosiy chora-tadbirlarni belgilab berdi. Ular qatoriga Jahon savdo tashkiloti (JST) standartlariga javob beradigan yangi tahrirdagi "Investitsiyalar to'g'risida"gi qonunni qabul qilish, xalqaro tijorat sudini yo'lga qo'yish, shuningdek, xorijiy investorlar uchun yer ijarasi muddatini ikki barobar uzaytirish kiradi¹. Shuningdek, so'nggi yillarda yurtimizda 60 milliard AQSH dollaridan ortiq xorijiy investitsiyalar o'zlashtirilgani ta'kidlandi. Xalqaro moliya institutlaridan ijtimoiy soha va infratuzilmaga 14 milliard dollardan ortiq mablag' jalb etildi. Faqat o'tgan yilning o'zida xorijiy investitsiyalar hajmi deyarli ikki baravarga oshdi². Ushbu bayonot O'zbekiston Respublikasining xorijiy investitsiyalarni jalb etishga ko'maklashuvchi qulay investitsion va ishbilarmonlik muhitini shakllantirishga intilishini ta'kidlaydi. Bu chora-tadbirlar mamlakatni rivojlantirishning strategik yo'nalishini aks ettirib, investorlar uchun sharoitni yaxshilash hamda ularning huquq va majburiyatlarini yanada ishonchli ta'minlashga qaratilgan.

Ushbu dissertatsiya tadqiqoti ma'lum darajada Davlatlar va xorijiy shaxslar o'rtasidagi investitsion nizolarni hal qilish tartibi to'g'risidagi Vashington konvensiyasi, Investitsiyalarning ko'p tomonlama taqsimlanishini kafolatlovchi agentlikni tashkil etish to'g'risidagi Seul konvensiyasida, O'zbekiston Respublikasining Iqtisodiy protsessual kodeksi (2018-yilgi), O'zbekiston Respublikasining 2020-yildagi "Investitsiyalar va investitsiya faoliyati

¹ Мухамеджанов О., Надежный и долгосрочный партнер для иностранных инвесторов. Правда Востока, 2024 г.

² O'zbekiston Respublikasi Prezidenti Sh.M. Mirziyoyevning Uchinchi Toshkent xalqaro investitsiya forumidagi nutqi. // O'zbekiston Respublikasi Prezidentining rasmiy veb-sayti [elektron resurs]. – URL: <https://president.uz/ru/lists/view/7194>.

to'g'risida"gi Qonuni, O'zbekiston Respublikasi Prezidentining 2022-yil 28-yanvardagi "2022–2026 yillarga mo'ljallangan Yangi O'zbekistonning taraqqiyot strategiyasi to'g'risida"gi PF–60-sonli Farmoni va sohadagi boshqa normativ-huquqiy hujjatlarda belgilangan vazifalarni bajarishga xizmat qiladi.

Tadqiqotning respublika fan va texnologiyalari rivojlanishining ustuvor yo'nalishlariga bog'liqligi. Dissertatsiya ishi "2022–2026-yillarga mo'ljallangan Yangi O'zbekistonning taraqqiyot strategiyasi to'g'risida"gi Farmonning II bo'limida ko'rsatilganidek, mamlakatimizda fan va texnologiyalarni rivojlantirishni nazarda tutuvchi, adolat va qonun ustuvorligi tamoyillarini taraqqiyotning asosiy va zaruriy sharti sifatida belgilovchi ustuvor yo'nalishiga asoslanadi. Bu xalqaro ommaviy huquqda investorlarning huquq va majburiyatlarini himoya qilish masalalarini yanada batafsilroq tahlil qilish, shuningdek, ularni yaxshilash bo'yicha taklif va tavsiyalar ishlab chiqish zaruratini ta'kidlaydi. Ushbu tadqiqotning ahamiyati va istiqbollari hisobga olsak, uni amalga oshirish yangi ilmiy natijalarga erishishga olib borishi mumkin. Xalqaro ommaviy huquq mexanizmlarini chuqur tahlil qilish ushbu yo'nalishdagi zaif jihatlarni aniqlash va takomillashtirishga, jumladan, qonunchilikni xalqaro standartlarga moslashtirish, huquqni qo'llash amaliyotini yaxshilash va xorijiy investorlar uchun huquqiy himoyani kuchaytirishga xizmat qiladi.

Muammoning o'rganilganlik darajasi. Investorlar huquq va majburiyatlari kafolatlarining umumiy masalalarini tadqiq etish mavzusi Sh.A. Axunov³, D. Kimsanov, O. Muhammadjonov, I.I. Rustambekov⁴, L.I. Achilova⁵, B. Rahimov⁶, B. Muminov⁷, B.E. Ochilov⁸, X.T. Odilqoriyev, R.T. Hakimov⁹, I.N.R. Inog'omova, B.B. Samarxo'jayev kabi mamlakatimiz olimlari tomonidan o'rganilgan.

Shuningdek, xorijiy ilmiy adabiyotlarda biz tadqiq etayotgan muammoning ayrim jihatlari bo'yicha A.Z. Ayupov¹⁰, G.M. Velyaminov, L.I. Volov, A.A. Danelyan¹¹, G.K. Dmitriyev¹², N.G. Doronina¹³, B.M. Klimenko, S.I. Krupko, G.M.

³ Axunov Sh.A., Davlatlar ishtirokidagi investitsion nizolarni xalqaro-huquqiy hal qilish vositalari. Yur. f. b. fals. dokt. ... dis. Toshkent, 2023-y.

⁴ Рустамбеков И., Кимсанов Д., Правовые реформы в сфере улучшения инвестиционного климата Узбекистана // Оценка инвестиций. 2019. № 1 (13).

⁵ Ачилова Л. И., Инвестиционное право. Учебное пособие. – Т.: издательство ТГЮУ, 2021. – 172 с.

⁶ Рахимов Б., (2020). Новые законодательные нормы разрешения инвестиционных споров в Республике Узбекистан. Обзор законодательства Узбекистана, (3).

⁷ Muminov B., Latest Amendments in the Foreign Investment Laws of Uzbekistan: Manifestation of Serious Ambitions for Change?, 4(1) RLJ (2016).

⁸ Очиллов Б. Э., Генезис и перспективы развития суверенитета и международной правосубъектности Республики Узбекистан (теоретико-прикладной анализ).

⁹ Хакимов Р. Т., Умаррахунов И. М., Международно-договорные инициативы Республики Узбекистан. Московский журнал международного права. 2001; (2): С. 252–275.

¹⁰ Аюпов А.З., Международно-правовое и внутригосударственное регулирование иностранных инвестиций. Дис. ... канд. юрид. н. Москва, 2008 г.

¹¹ Дanelьян А.А., Международно-правовой режим иностранных инвестиций. Дис. ... докт. юрид. н. – М., 2016.

¹² Дмитриева Г.К., Викторова Н.Н., Суверенитет государства в контексте привлечения иностранных инвестиций // Актуальные проблемы российского права. 2018. № 12 (97).

¹³ Доронина Н.Г., Многосторонние международные договоры и российское законодательство об инвестициях // Журнал российского права. – 2002. – № 11.

Kostyunina¹⁴, K.E. Ksenofontov, D.B. Levin, I.I. Lukashuk¹⁵, D.A. Lukichev, F.F. Martens, N.P. Matulis, I.E. Papushina, L. Piskun, E.V. Popov, P.O. Protopopova, I.V. Rachkov¹⁶, A.M. Sayenko¹⁷, A.Y. Suxarev, K. Tayvuk, V.A. Trapeznikov, M.Y. Tulayeva, A.Z. Farxutdinov¹⁸, M.A. Sirina¹⁹, S.V. Chernichenko²⁰, V.M. Shumilov, I.Y. Shomurodov²¹, D.V. Yulov²² va boshqalarning ishlarini alohida ko'rsatib o'tish mumkin.

Dissertatsiya mavzusining dissertatsiya bajarilgan oliy ta'lim muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog'liqligi. Tadqiqot Toshkent davlat yuridik universitetining ilmiy-tadqiqot ishlar rejasi doirasida bajarildi.

Tadqiqotning maqsadi global miqyosda investorlar manfaatlarini himoya qilishning huquqiy mexanizmlarini rivojlantirish bo'yicha mavjud muammolar va istiqbolli yo'nalishlarni aniqlashni, shuningdek, ushbu sohadagi qonunchilik va huquqni qo'llash amaliyotining samaradorligini oshirish yuzasidan takliflar va tavsiyalar ishlab chiqishni nazarda tutadi.

Tadqiqotning vazifalari:

xalqaro investitsiya huquqining xalqaro huquq tizimidagi o'rni va ahamiyatini o'rganish;

xalqaro investitsiya bitimlari subyektlarini tahlil qilish;

xalqaro investitsion munosabatlarda davlatlarning huquqiy subyektligi, huquqiy layoqati va yuridik salohiyati kabi tushunchalarni farqlash;

davlat suvereniteti masalalarini investorlarning huquq va majburiyatlarini himoya qilish kontekstida o'rganish;

xalqaro sud organlari va arbitrajlarda xalqaro investitsiya munosabatlari subyektlarining manfaatlarini ta'minlash masalalarini tadqiq qilish;

investitsiya nizolarini hal qilishda davlatlarning ishtirokiga oid xalqaro-huquqiy masalalarni o'rganish;

investitsiyalar bo'yicha ikki tomonlama va ko'p tomonlama bitimlarning rivojlanishini o'rganish;

xalqaro investitsiya munosabatlarida subyektlarning manfaatlari muvozanatini ta'minlovchi huquqiy mexanizmlarni takomillashtirishni tahlil qilish;

¹⁴ Костюнина Г. М., Ливенцев Н. Н., Международная практика регулирования иностранных инвестиций. Учебное пособие — М.: Анкил. 2001.

¹⁵ Лукашук И. И., Глобализация, государство, право XXI век. М.: Спарк, 2000.

¹⁶ Рачков И. В., Согласие государства на рассмотрение международных инвестиционных споров. // Международное правосудие. 2014. № 4 (12).

¹⁷ Саенко А. М., Соотношение международного и внутреннего права в инвестиционной сфере в контексте глобализации (проблемы теории и практики). Дис. ... канд. юрид. н. Москва, 2007.

¹⁸ Фархутдинов И. З., Международно-правовое регулирование инвестиционных отношений: теория и практика. Дис. ... докт. юрид. н. — М., 2006.

¹⁹ Цирина М. А., Особенности разрешения инвестиционных споров. // Вестник Волгоградской академии МВД России. 2016. № 4 (39).

²⁰ Международное право / под ред. А.А. Ковалева, С. В. Черниченко. М., 2008.

²¹ Шомуродов И. Ю., Международно-правовое сотрудничество государств в сфере разрешения инвестиционных споров. Дис. ... канд. юрид. н. — М., 2011.

²² Юлов Д. В., Взаимодействие национально-правового и международно-правового регулирования правовых гарантий иностранных инвесторов. // Журнал российского права. 2021. № 4.

investorlarning huquq va majburiyatlarini himoya qilishni takomillashtirishga doir takliflar ishlab chiqish.

Tadqiqot obyekti – investorlarning huquq va majburiyatlarini himoya qilish bilan bog‘liq xalqaro huquqiy munosabatlar majmui.

Tadqiqot predmeti – investorlarning huquq va majburiyatlarini tartibga soluvchi normalar, ilmiy-nazariy jihatlar hamda ushbu sohadagi huquqni qo‘llash amaliyoti bilan bog‘liq dolzarb muammolar.

Tadqiqot usullari. Belgilangan maqsadga erishish va qo‘yilgan vazifalarni hal qilish uchun tarixiy-huquqiy, tahlil va sintez, qiyosiy-huquqiy, tizimli-tuzilmaviy tahlil, yuridik adabiyotlar va normativ hujjatlarni o‘rganish, huquqni qo‘llash amaliyotini umumlashtirish va tahlil qilish usullardan foydalanildi.

Tadqiqotning ilmiy yangiliklari quyidagilardan iborat:

Investitsiya loyihalarida ijtimoiy mas‘uliyat va barqaror rivojlanish tamoyillariga rioya qilish lozimligi, bu esa ularning atrof-muhit va jamiyatga salbiy ta‘sirini kamaytirishga yordam berishi asoslantirilgan;

yanada qulay qonunchilik va investitsiya muhitini yaratish orqali rivojlanayotgan mamlakatlarni barqaror rivojlanishga yo‘naltirilgan investitsiyalarini ko‘paytirishda qo‘llab-quvvatlash kerakligi asoslantirilgan;

rivojlanayotgan mamlakatlarda ilm-fan, texnika va innovatsiyalarga investitsiyalarni jalb etish hamda qo‘llab-quvvatlash orqali hamkorlikni chuqurlashtirish, shuningdek, investitsiyalar va tadbirkorlikni rag‘batlantirish, mahalliy innovatsion ekotizimlarni rivojlantirish uchun qulay shart-sharoitlar yaratilishi lozimligi asoslantirilgan;

O‘zbekiston milliy qonunchiligi va xalqaro huquq o‘rtasidagi muvozanatni ta‘minlaydigan xorijiy investitsiya faoliyatini tartibga solishga kompleks huquqiy yondashuvni belgilash, milliy qonunchilik normalariga rioya qilish, ularni xalqaro majburiyatlar bilan uyg‘unlashtirish va investitsiya faoliyati ishtirokchilari uchun huquqiy muammolarni minimallashtirishga huquqiy asos yaratishni O‘zbekiston Respublikasi qonunchiligida belgilash zarurati asoslantirilgan.

Tadqiqotning amaliy natijalari quyidagilardan iborat:

davlatlarning ushbu jarayondagi huquqiy subyektligi hamda ishtirokining huquqiy tabiati asosli ravishda yoritib berildi. Investorlarning huquqlarini tartibga soluvchi asosiy tushunchalar va normativ hujjatlar ko‘rib chiqilib, davlatlarning xalqaro investitsiya munosabatlarida o‘z majburiyatlari va huquqlarini amalga oshirish mexanizmlari tahlil qilindi;

investorlarning huquq va majburiyatlarini ta‘minlashda davlat suvereniteti bilan bog‘liq muammolar milliy manfaatlar va xalqaro majburiyatlar o‘rtasidagi ziddiyat tufayli yuzaga kelishi asoslab berildi. Suverenitet davlatlarga ichki siyosatni yuritish va qonunchilikda o‘zgarishlar qilish yoki natsionalizatsiya kabi investitsiyalarga salbiy ta‘sir ko‘rsatishi hamda investorlarning huquqlarini buzishi mumkin bo‘lgan qarorlarni qabul qilish imkonini beradi. Davlatning ichki o‘zgarishlar qilish huquqi va uning investitsiyalarni himoya qilish bo‘yicha xalqaro majburiyatlari o‘rtasidagi muvozanatni topish muhimdir;

xalqaro sud organlari va arbitrajlarida xalqaro investitsiya munosabatlari subyektlarining manfaatlarini ta‘minlash alohida yondashuvni talab qilishi

asoslandi. Tadqiqotda bunday nizolarni muayyan siyosiy va huquqiy shart-sharoitlarni hisobga olgan holda hal etishning samarali mexanizmlarini yaratish zarurligi aniqlandi. Nizolarni hal qilishning xalqaro va milliy mexanizmlarini takomillashtirish bo'yicha tavsiyalar ishlab chiqildi;

investitsiya nizolarini hal qilishda davlatlar ishtiroki bilan bog'liq xalqaro huquqiy muammolar, jumladan, ularning ishtiroki hamda turli sud va arbitraj organlari bilan o'zaro munosabatlarining huquqiy tabiati asoslab berildi. Tadqiqotda xalqaro mexanizmlarda yetishmayotgan muvofiqlashtirish va huquqiy bo'shliqlar masalalari aniqlanib, nizolarni hal qilish samaradorligi hamda adolatlilikini oshirish bo'yicha yechimlar taklif etildi;

ikki tomonlama va ko'p tomonlama investitsiya shartnomalarining huquqiy tahlili o'tkazildi. Investitsiyalarni himoya qilish mexanizmlari, qabul qiluvchi davlatlarning majburiyatlari va investorlarning huquqlari, shuningdek, nizolarni hal etish tartibi ko'rib chiqildi. Investitsiya muhitining barqarorligi va bashoratlilikini ta'minlaydigan huquqiy vositalarga, shuningdek, xalqaro standartlarning investitsiya munosabatlarini tartibga solishning ta'siriga alohida e'tibor qaratildi.

Tadqiqot natijalarining ishonchliligi. Tadqiqot natijalarining ishonchliligi tegishli ilmiy metodlar, nazariy yondashuvlarning qo'llanilishi, xalqaro tajriba va milliy qonunchilik o'rtasidagi o'zaro aloqalarni tahlil qilish, shuningdek, olingan xulosalar, takliflar va tavsiyalarni amaliyotga tatbiq etish orqali ta'minlanadi. Bu tadqiqot natijalarining ilmiy nashrlarda chop etilgani, vakolatli organlar tomonidan ma'qullangani va amaliyotda qo'llangani bilan tasdiqlanadi.

Tadqiqot natijalarining ilmiy-amaliy ahamiyati. Investorlarning huquq va majburiyatlarini ta'minlash, uning xalqaro huquqdagi o'rni va mamlakatni rivojlantirishga ta'siri masalasi tobora dolzarb bo'lib bormoqda. Bu talabalar va tadqiqotchilarning bilim va ko'nikmalari ortishida namoyon bo'ladi, ular o'quv jarayoniga muvaffaqiyatli kiritilishi va sohada yangi ilmiy izlanishlar olib borishda foydalanilishi mumkin. Tadqiqot natijasida investorlar va davlatlar xalqaro huquq sohasida duch kelayotgan muammolar hamda xatarlarni chuqur tahlil qilib ko'rishni taklif etib, bu masalalarni tushungan holda hal etishga katta hissa qo'shadi.

Bundan tashqari, tadqiqot natijalaridan ushbu sohadagi dolzarb ilmiy muammolarni tahlil qilishda, shuningdek, investitsiya muhitini yaxshilash hamda investorlar huquqlarini himoya qilishga qaratilgan tavsiyalar va amaliy yechimlar ishlab chiqishda samarali foydalanish mumkin. Ushbu natijalarni xalqaro ommaviy huquq, xalqaro investitsiya huquqi, xalqaro iqtisodiy huquq kabi fanlarni o'qitishda qo'llash mumkin. Ular ma'ruza materiallari, o'quv qo'llanmalari va kurs dasturlarini yaratish uchun asos bo'lib xizmat qilishi, shuningdek, ilmiy-tadqiqot faoliyatini qo'llab-quvvatlashi mumkin. Bundan tashqari, tadqiqot fuqarolar o'rtasida huquqiy ong va madaniyatni oshirishga yordam beradi.

Tadqiqot natijalarining joriy qilinishi. Tadqiqot natijalaridan quyidagilarda foydalanilgan:

ijtimoiy mas'uliyat va barqaror rivojlanish standartlariga rioya qilish to'g'risidagi taklif BMT Bosh Assambleyasi tomonidan 2024-yil 22-sentabrda qabul qilingan Kelajak uchun paktning 58-bandini ishlab chiqishda foydalanilgan (O'zbekiston Respublikasining Birlashgan Millatlar Tashkiloti huzuridagi Doimiy

vakolatxonasining 2024-yil 7-noyabrdagi dalolatnomasi). Ijtimoiy mas'uliyat va barqaror rivojlanish tamoyillarini joriy etish investitsiya loyihalarining atrof-muhitga va jamiyatga ko'rsatadigan salbiy ta'sirini kamaytirishga yordam bergan. Bu ham investorlar, ham qabul qiluvchi davlatlar uchun uzoq muddatli manfaatlar asosini yaratishga xizmat qilgan;

barqaror rivojlanishda investitsiyalarni oshirishni rag'batlantirish borasida rivojlanayotgan mamlakatlarni, jumladan, yanada qulay normativ-huquqiy va investitsiya muhitini yaratish orqali qo'llab-quvvatlash to'g'risidagi taklif BMT Bosh Assambleyasi tomonidan 2024-yil 22-sentabrda qabul qilingan Kelajak uchun paktning 4-harakatidagi (k) bandini ishlab chiqishda foydalanilgan (O'zbekiston Respublikasining Birlashgan Millatlar Tashkiloti huzuridagi Doimiy vakolatxonasining 2024-yil 7-noyabrdagi dalolatnomasi). Bu rivojlanayotgan davlatlar, xalqaro tashkilotlar, moliyaviy institutlar va rivojlangan davlatlar o'rtasidagi hamkorlikni yanada mustahkamlashga turtki berib, tajriba almashish, moliyaviy ko'mak hamda texnik yordam ko'rsatishni osonlashtirishda xizmat qilgan;

rivojlanayotgan mamlakatlarda ilm-fan, texnika va innovatsiyalarga investitsiyalarni jalb etish va qo'llab-quvvatlash, shuningdek, investitsiyalar va tadbirkorlikka, mahalliy innovatsion ekotizimlarni rivojlantirishga ko'maklashuvchi qulay shart-sharoitlarni yaratish orqali hamkorlikni chuqurlashtirish bo'yicha taklif 2024-yil 22-sentabrda BMT Bosh Assambleyasi tomonidan qabul qilingan Kelajak uchun paktning 29-harakati (f) bandini ishlab chiqishda foydalanilgan (O'zbekiston Respublikasining Birlashgan Millatlar Tashkiloti huzuridagi Doimiy vakolatxonasining 2024-yil 7-noyabrdagi dalolatnomasi). Bu xorijiy investitsiyalarni himoya qilishga qaratilgan bitimlar tuzish orqali ko'p tomonlama va ikki tomonlama hamkorlikni kuchaytirish, davlatlarning innovatsiyalarni rag'batlantirish va investitsiya faoliyatini soddalashtirish majburiyatlarini o'z ichiga olgan maxsus bitimlarni ishlab chiqishga xizmat qilgan;

xorijiy davlatlar hududida investitsiyalarni yo'naltirishni tartibga solish ushbu qonunga, investitsiya faoliyati amalga oshirilayotgan davlatning qonunchiligiga va O'zbekiston Respublikasi xalqaro shartnomalariga muvofiq amalga oshirilishi to'g'risidagi taklif O'zbekiston Respublikasining 2019-yil 25-dekabrda "Investitsiyalar va investitsiya faoliyati to'g'risida"gi O'RQ-598-sonli Qonuni 57-moddasining ikkinchi qismini ishlab chiqishda foydalanilgan (O'zbekiston Respublikasi Qonunchilik palatasining 2024-yil 15-oktabrdagi dalolatnomasi). Ushbu taklifning joriy etilishi milliy qonunchilik va xalqaro huquq o'rtasida muvozanatni ta'minlashga xizmat qiladi. Unga ko'ra, xorijiy davlatlarda investitsiya faoliyatini amalga oshirishda O'zbekiston milliy qonunchiligiga ham rioya qilish, shuningdek, xalqaro huquq va shartnomalar bilan uyg'unlikda ishlash talab etiladi.

Bu xalqaro hamjamiyatning ijtimoiy mas'uliyat va barqaror rivojlanish tamoyillariga sodiqligini ta'kidlab, investorlarning ishonchini mustahkamlash, investitsiyalar uchun barqaror sharoitlar yaratish va xalqaro hamkorlik imkoniyatlarini kengaytirish bo'yicha tashabbuslarni amalga oshirishiga asos bo'ldi.

Tadqiqot natijalari aprobatyasi. Tadqiqot natijalari 4 ta ilmiy-amaliy anjumanda, jumladan, 2 ta xalqaro, 2 ta respublika miqyosidagi ilmiy-amaliy konferensiyada muhokamadan o'tkazilgan.

Tadqiqot natijalarining e'lon qilinganligi. Dissertatsiya mavzusi bo'yicha jami 11 ta ilmiy maqola (2 ta xorijiy jurnalda, jumladan, 1 ta ilmiy maqola "Scopus" va "Web of Science" ilmiy platforma bazalariga kiradigan jurnalda) chop etilgan.

Dissertatsiyaning tuzilishi va hajmi. Dissertatsiya kirish, 8 ta bo'limni o'z ichiga olgan uchta bob, xulosa va foydalanilgan adabiyotlar ro'yxatidan iborat. Dissertatsiya hajmi 150 sahifani tashkil etadi, bu tadqiqotning nazariy va amaliy qismlarini o'z ichiga oladi.

DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiyaning kirish qismida mavzuning dolzarbligi va zarurati, tadqiqotning respublika fan va texnologiyalari rivojlanishining ustuvor yo'nalishlariga mosligi, muammoning o'rganilganlik darajasi, dissertatsiya tadqiqotining ish bajarilgan oliy ta'lim muassasasining ilmiy-tadqiqot rejalari bilan bog'liqligi yoritiladi. Shuningdek, tadqiqotning maqsad va vazifalari, obyekt va predmeti, usullari, ilmiy yangiligi va amaliy natijasi, natijalarning ishonchliligi, ilmiy va amaliy ahamiyati, tadqiqot natijalarining joriy etilishi hamda sinovdan o'tkazilishi, mavzu bo'yicha chop etilgan ishlar, dissertatsiyaning tuzilishi va hajmi bayon qilinadi.

Dissertatsiyaning **"Xalqaro huquqda investorlarning huquq va majburiyatlarini ta'minlashning nazariy asoslari"** deb nomlangan birinchi bobi xalqaro huquqda investitsiya faoliyatini huquqiy tartibga solish masalalarining ilmiy-nazariy tahlilga bag'ishlangan bo'lib, keyingi boblarga asos yaratadi. Unda investorlarning huquq va majburiyatlarini belgilashga doir asosiy yondashuvlar ochib berilgan, xalqaro yuridik adabiyotlarda qo'llanadigan "xalqaro investitsiya huquqi", "chet el investitsiyalarining huquqiy rejimi", "xalqaro huquqda investorlarni himoya qilish" kabi asosiy tushunchalar o'rganilgan.

Muallifning fikricha, xalqaro investitsiya huquqi alohida huquqiy tizim bo'lmay, xalqaro ommaviy huquq bilan uzviy bog'liqdir. Bu, birinchidan, investitsiya huquqi normalari xalqaro huquqning umumiy tamoyillari asosida tartibga solinadigan xalqaro shartnomalarda o'z aksini topishida namoyon bo'ladi. Ikkinchidan, xalqaro investitsiya huquqi inson huquqlari kabi soha bilan chambarchas bog'liqdir. Bundan tashqari, arbitraj jarayonlarining shaffofligi kabi institutsional o'zgarishlar xalqaro ommaviy huquqning investitsiya nizolariga ta'sirini ko'rsatmoqda.

A.G. Bogatiryov ham ushbu sohaning shakllanishi an'anaviy xalqaro huquqdan tortib zamonaviy investitsiya bitimlarigacha bo'lgan huquqiy normalar takomillashuvining uzoq davom etgan jarayoni natijasida yuz berganini ta'kidlaydi²³. Shunday qilib, xalqaro investitsiya huquqi mustaqil tizim emas, balki xalqaro huquqiy tartibot doirasida shakllanayotgan hamda jadal rivojlanayotgan sohani ifodalaydi.

²³ Богатырев А.Г. Инвестиционное право. Москва, 1992. С. 52–56.

Bundan tashqari, xalqaro investitsiya huquqi avtonom huquqiy tizim sifatida ikki asosiy qismdan iborat ekanligi tasdiqlanadi. Ularning birinchisi davlatlar va xalqaro tashkilotlar o'rtasidagi munosabatlarni tartibga solishga qaratilgan bo'lib, investitsiya bitimlarini tuzish va bajarish asoslarini belgilaydi. Bu qoidalar Xalqaro investitsiya nizolarini hal qilish markazi, UNSITRAL va boshqa arbitraj tuzilmalari kabi xalqaro institutlarning vakolatlarini belgilab, investitsiya nizolarini hal etishni ta'minlaydi. Ikkinchi tarkibiy qism esa investorlarning huquq va majburiyatlarini, chet el investitsiyalarini amalga oshirish shartlarini, investitsiyalarni himoya qilish mexanizmlarini, shuningdek, adolatli va teng huquqli rejim tamoyillarini o'z ichiga oladi. Xorijiy investitsiyalarni noqonuniy ekspropriatsiyadan himoya qilish, huquqiy rejim shaffofligini kafolatlash, halol munosabat va kamsitmaslik tamoyillari muhim unsurlar hisoblanadi. Huquqning bu qismi, shuningdek, investorlarning davlatlar bilan o'zaro munosabatlari shartlarini va ularning qabul qiluvchi tomon oldidagi javobgarligini ham belgilaydi.

Ushbu bobning "Xalqaro investitsiya munosabatlarida xalqaro huquqiy subyektlilik institutining rivojlanishi" deb nomlangan ikkinchi paragrafida xalqaro investitsiya munosabatlarida davlatlarning huquqiy subyektligi muhim rol o'ynashi haqida so'z yuritiladi. Bu subyektlilik davlatlarning investitsiya bitimlarini tuzish, chet el investorlari uchun huquqiy asoslarni belgilash va xalqaro majburiyatlarga rioya etish bo'yicha javobgarligini belgilaydi.

Tadqiqotchining fikriga ko'ra, huquqiy subyektlilik umumiy (barcha suveren davlatlarga xos), sohaviy (xalqaro huquqning muayyan sohalariga oid) va maxsus (xalqaro hamkorlikning alohida jihatlari bilan bog'liq) bo'lishi mumkin. Xalqaro huquqda subyektlarning huquq layoqati va muomala layoqati o'zaro uzviy bog'liq bo'lib, bunga yagona tushuncha sifatida qaraladi.

Davlatlarning xalqaro investitsiya munosabatlaridagi huquqiy layoqati ularning huquq va majburiyatlarga ega bo'lish, shartnomalar tuzish, chet el investitsiyalarini tartibga solish va himoya qilish qobiliyatidan iborat. Davlatlar *ipso facto*, ya'ni mavjudligi tufayli huquqiy layoqatga ega bo'ladi. Biroq to'liq xalqaro huquqiy subyektlilik nafaqat huquq, balki muomala layoqatini, ya'ni o'z huquqlarini amalga oshirish va majburiyatlarini bajarish qobiliyatini ham talab etadi. Buning uchun xalqaro miqyosda tan olinish va xalqaro shartnomalarda faol ishtirok etish zarur. Investitsiya sohasida davlatlar ikki tomonlama investitsiya shartnomalarini tuzadi, investorlarni himoya qilish uchun milliy qonunchilikni ishlab chiqadi, xalqaro arbitrajlarda qatnashadi va xalqaro investitsiya standartlarini shakllantirishga ta'sir ko'rsatadi. Xalqaro huquqiy subyektliligining muhim jihati – delikt qobiliyati, ya'ni davlatning noqonuniy ekspropriatsiya yoki kamsituvchi choralar kabi investitsiya majburiyatlarini buzganlik uchun javobgarligidir.

Dissertatsiyaning "**Xalqaro huquqda investorlarning huquq va majburiyatlarini ta'minlashning dolzarb muammolari**" deb nomlangan ikkinchi bobida davlatlarning suveren huquqlarini hisobga olgan holda xalqaro miqyosda investitsiya munosabatlarini tartibga solishning umumiy huquqiy mexanizmi ko'rib chiqiladi. Unda investorlar huquqlariga rioya qilish va ular tomonidan majburiyatlar bajarilishining asosiy muammolari ajratib ko'rsatiladi, shuningdek, xalqaro huquq doirasida ularni himoya qilish va amalga oshirish mexanizmlari tahlil qilinadi.

Davlat suvereniteti xalqaro huquqning asosiy tamoyili hisoblanib, uning mustaqilligini va ichki hamda tashqi jarayonlarni mustaqil boshqarish qobiliyatini ta'minlaydi. Klassik huquq nazariyasida u mutlaq va cheklanmagan deb qaralgan, biroq bugungi globallashuv va xalqaro iqtisodiy hamkorlik sharoitida davlat suvereniteti tobora ko'proq muayyan cheklovlarga duch kelmoqda.

Shunday qilib, amerikalik olim Stiven D. Krasner suverenitetning to'rt jihatini ajratib ko'rsatadi:

- 1) mamlakat ichidagi siyosiy va iqtisodiy hokimiyatni nazorat qilish bilan bog'liq bo'lgan ichki suverenitet;
- 2) davlatning chegaralararo oqimlarni (masalan, investitsiyalarni) nazorat qilish qobiliyatini aks ettiruvchi o'zaro bog'liqlik suvereniteti;
- 3) davlatlarning xalqaro huquqning teng subyektlari sifatida tan olinishini ta'minlovchi xalqaro-huquqiy suverenitet;
- 4) davlatning ichki ishlariga tashqi subyektlarning aralashuvini taqiqlovchi "Vestfaliya" suvereniteti²⁴.

Davlat suvereniteti va xalqaro majburiyatlar o'rtasidagi munosabat masalasi ilmiy munozaralarga sabab bo'lmoqda. Doktrinada ikki qarama-qarshi nuqtayi nazar mavjud. Birinchi nuqtayi nazarga ko'ra, xalqaro shartnomalar davlat suverenitetini cheklaydi, chunki ular davlatga yuridik majburiyatlar yuklaydi va uning harakat erkinligini toraytiradi. Xuddi shunday fikr "O'zbekistonda investitsion nizolarni hal qilish tizimini takomillashtirish"²⁵ nomli tahliliy ma'ruzada ham bildirilgan. Unda ta'kidlanishicha, investitsiyalarni jalb qilayotgan mamlakatlar sud daxlsizligi va bir tomonlama iqtisodiy choralar ko'rish huquqidan voz kechib, o'z suverenitetini ongli ravishda cheklashga kirishadilar. Ushbu g'oyalar shuni ko'rsatadiki, zamonaviy sharoitlarda davlatlar nafaqat ichki mustaqillikni, balki xalqaro me'yorlarni ham hisobga olishga majbur, bu ayniqsa investitsiya sohasida dolzarb ahamiyat kasb etadi.

Ikkinchi nuqtayi nazar shundan kelib chiqadiki, xalqaro shartnomalar davlat suverenitetini cheklamaydi, aksincha, uni amalga oshiradi. Xususan, I.I. Lukashuk shartnoma tuzish suverenitetni kamaytirmasdan, balki davlatga uni amalga oshirish uchun qo'shimcha imkoniyatlar berishini ta'kidlaydi²⁶. N.N. Paliyenko ham shunga o'xshash pozitsiyani egallab, xalqaro shartnoma suverenitetni kamaytirmasdan, balki davlatning o'z zimmasiga olgan majburiyatlariga rioya qilish bo'yicha yuridik mas'uliyat yuklashini qayd etadi.

Muallifning fikricha, davlat suverenitetiga miqdoriy o'lchov bilan belgilanmaydigan sifat kategoriyasi sifatida qaralishi lozim. Bu nuqtayi nazardan davlat suvereniteti va suveren huquqlar tushunchalarini farqlash muhim ahamiyatga ega. Investitsiyalarni himoya qilish va rag'batlantirish sohasidagi xalqaro shartnomalarni imzolash suverenitetning kamayishini emas, balki uning amalga oshirilishini anglatadi. Davlat o'z ixtiyori bilan xalqaro majburiyatlarni zimmasiga

²⁴ Правовые проблемы определения и реализации государственного суверенитета на современном этапе: монография / под ред. А.К. Сквикова, И. В. Яковюка. — М.:, 2010.

²⁵ Аналитический доклад "Совершенствование системы разрешения инвестиционных споров в Узбекистане". Авторский коллектив. Руководитель группы: Ф. Ризаев. Ташкент, 2008. С. 32.

²⁶ Ушаков Н. А., Международное право: Учебник. – Москва: Юристъ, 2003.

olish orqali o'zining suveren huquqlarini ro'yobga chiqaradi, jumladan, chet el investorlariga xalqaro arbitrajga murojaat qilish imkoniyatini taqdim etadi.

“Xalqaro sud organlari va arbitrajlarda xalqaro investitsiya munosabatlari subyektlarining manfaatlarini ta'minlash muammolari” deb nomlangan ikkinchi paragrafda investorlar nizolarni hal etishda duch keladigan asosiy to'siqlar ko'rib chiqiladi. Xalqaro investitsiya nizolari qabul qiluvchi davlatning ichki qonunchiligi hamda arbitraj jarayonlari va diplomatik himoyani o'z ichiga olgan xalqaro mexanizmlar bilan tartibga solinadi. Investorlar huquqlarini samarali himoya qilish masalasi, ayniqsa, ularning mulki musodara qilinganda yoki davlat tomonidan boshqa tarzda huquqlari buzilganda, dolzarb ahamiyat kasb etadi. Bunday nizolarni hal qilishning asosiy usullari majburiy choralar (sud va arbitraj) hamda ixtiyoriy mexanizmlar (muzokaralar, vositachilik, yarashuv) hisoblanadi. Maxsus xalqaro shartnoma mavjud bo'lmagan hollarda diplomatik himoya qo'llanishi mumkin, biroq xalqaro huquq dastlab huquqiy himoyaning ichki vositalaridan to'liq foydalanishni talab etadi.

Amaliyot shuni ko'rsatadiki, investorlar ko'pincha qabul qiluvchi davlatning milliy sudlariga siyosiy ta'sir ehtimoli tufayli ishonch bildirmaydilar. Shu bois, ikki tomonlama investitsiya shartnomalarining ahamiyati ortib, investorlarga xalqaro arbitraj organlariga murojaat qilish imkoniyatini taqdim etadi. Investitsiya nizolarini tartibga solishda 1965-yilgi Vashington konvensiyasi muhim o'rin tutadi. U Investitsiya nizolarini hal qilish bo'yicha xalqaro markazni ta'sis etib, investorlarni siyosiy xavf-xatarlardan va ularning huquqlari buzilishidan himoya qilishni ta'minlaydi. Biroq markazning vakolati cheklangan: nizo tomonlari konvensiya ishtirokchilari bo'lishi, nizoning o'zi esa *ratione personae* va *ratione materiae* mezonlariga mos kelishi shart. Davlat konvensiya ishtirokchisi bo'lmagan hollarda nizolarni hal qilishning muqobil yo'llari mavjud bo'lib, ularga Nyu York konvensiyasi va boshqa xalqaro shartnomalarda nazarda tutilgan arbitraj jarayonlari kiradi. Shunday qilib, investitsion nizolarni hal etishning xalqaro amaliyoti investorlar huquqlarini himoya qilishning milliy, xalqaro va shartnomaviy mexanizmlarini o'z ichiga olgan kompleks yondashuvni namoyon etadi.

Bundan tashqari, Seul konvensiyasiga ko'ra, Investitsiyalarni kafolatlash bo'yicha ko'p tomonlama agentlik va investitsiyalarni qabul qiluvchi davlat o'rtasidagi nizolar, avvalo, muzokaralar bosqichidan o'tishi, kelishuv bo'lmagan taqdirda esa arbitrajga topshirilishi lozim. Bu holat investitsiya sohasida xalqaro arbitrajning muhimligini yana bir bor ta'kidlaydi. Biroq bunday organlar qarorlarini tan olish va ijro etish milliy qonunchilikning xalqaro shartnomalar bilan muvofiqligi darajasiga bog'liq bo'lib, bu ba'zan huquqni qo'llash amaliyotida qiyinchiliklarga sabab bo'ladi. Investitsiyalarni xalqaro himoya qilish tizimi investitsiya bitimlarining huquqiy noaniqligi tufayli tanqidga uchramoqda. Bu holat keng talqin imkoniyatlarini yaratib, davlatlarning tartibga solish vakolatlarini cheklaydi. Shuningdek, ziddiyatli arbitraj qarorlari sonining ortishi kuzatilmoqda, bu esa investitsiya huquqining parchalanishiga olib kelib, uning bashorat qilinishini qiyinlashtirmoqda. Ko'pincha arbitraj mexanizmlari investorlar manfaatlarini himoya qilishga haddan ziyod yo'naltirilgani, davlat manfaatlari va uchinchi shaxslar huquqlarini kamsitishi, shuningdek, sud jarayonlarining yetarlicha shaffof

emasligi haqida xavotirlar bildirilmoqda. Davlatlar va yirik korporatsiyalarning ish natijasiga ta'sir ko'rsatishi ehtimolini hisobga olgan holda hakamlarning mustaqilligi ham muhim muammo bo'lib qolmoqda. Siyosiy omillar ham o'z rolini o'ynaydi, chunki qabul qiluvchi mamlakatlardagi beqarorlik arbitraj qarorlarini ijro etish samaradorligiga ta'sir ko'rsatishi mumkin. Bunday sharoitda davlatlar xalqaro arbitraj institutlarini mustahkamlash va huquqiy tartibga solishni yagona tizimga keltirish orqali investitsiyalarni himoya qilish tizimiga bo'lgan ishonchni oshirish hamda tomonlar manfaatlarining muvozanatini ta'minlashga intilmoqda.

Asosiy ko'p tomonlama hujjatlar 1965-yilgi Vashington konvensiyasi, 1985-yilgi Seul konvensiyasi va 1994-yilgi Energetika xartiyasi to'g'risidagi shartnoma hisoblanadi. Shuningdek, TRIMS, GATS va TRIPSni o'z ichiga olgan GATT/JST kelishuvlari ham muhim ahamiyatga ega. Biroq xorijiy investitsiyalar sohasida yagona xalqaro hujjatning yo'qligi huquqiy noaniqlikka olib kelmoqda va investorlarni samarali himoya qilishga to'sqinlik qilmoqda. IHTT homiyligida Investitsiyalar bo'yicha ko'p tomonlama bitimni (IKB) ishlab chiqish huquqiy bo'shliqlarni bartaraf etishga hamda xalqaro va milliy tartibga solish me'yorlarini muvofiqlashtirish maqsadiga qaratilgan.

Dissertatsiyaning uchinchi bobi **“Xalqaro huquqda investorlarning huquq va majburiyatlarini ta'minlashni rivojlantirish istiqbollari”** deb nomlangan. Uning birinchi paragrafida ikki tomonlama va ko'p tomonlama investitsiya bitimlarining rivojlanishi ko'rib chiqiladi.

Xalqaro huquqda ikki tomonlama va ko'p tomonlama investitsiya bitimlarining rivojlanishi chet el investitsiyalarini himoya qilish va tartibga solishning huquqiy asosini ta'minlashda hal qiluvchi ahamiyatga ega. Ikki tomonlama investitsiya shartnomalari investorlarga siyosiy xatarlardan, jumladan, mulkni davlat ixtiyoriga o'tkazishdan himoyalani va xalqaro arbitrajga murojaat qilish imkoniyatini beruvchi keng tarqalgan vositaga aylandi. Ularning paydo bo'lishi xalqaro kapitalning o'sishi va davlatlarning qulay investitsiya muhitini yaratishga intilishi bilan bog'liq. Bunday shartnomalarning dastlabkilari XX asr o'rtalarida tuzila boshlagan bo'lib, rivojlanayotgan mamlakatlarning mustaqillikka erishishi bilan ularning soni sezilarli darajada ko'paydi. Keyinchalik investitsiyalarni himoya qilishning ko'p tomonlama tizimi, shu jumladan, maxsus konvensiyalar ham vujudga keldi. Zamonaviy investitsiya bitimlari davlatlar va investorlar manfaatlari o'rtasidagi muvozanatni o'rnatib, adolatli va teng huquqli rejim, eng ko'p qulaylik yaratish tartibi hamda kapitalni erkin o'tkazish kafolatlari kabi asosiy tamoyillarni mustahkamlaydi.

Farxutdinov I.Z. ta'kidlaganidek, ikki tomonlama investitsiya bitimlari investorlar uchun bashorat qilinadigan huquqiy muhitni yaratishga qaratilgan eng muhim huquqiy tartibga solish vositasi hisoblanadi. Ularning asosiy maqsadi, ayniqsa, iqtisodiy inqirozlar sharoitida investitsiya jarayonining barqarorligini va kapitallarning erkin harakatini ta'minlashdan iborat. Investitsiyalarni siyosiy xatarlardan himoya qilishga alohida e'tibor qaratiladi, bu ayniqsa rivojlanayotgan mamlakatlar uchun muhim ahamiyatga ega. Ikki tomonlama investitsiya bitimlari davlatlarga umumiy tamoyillarni o'z milliy sharoitlariga moslashtirish va hamkorlikning noyob mexanizmlarini yaratish imkonini beradi.

Masalan, O'zbekiston Respublikasi Rossiya, Qozog'iston, Belarus, Avstriya, Bolgariya va Janubiy Koreya kabi davlatlar bilan 52 taga yaqin shunday bitimlar tuzgan. Investitsiyalarni tartibga solishda soliq to'siqlarini bartaraf etadigan va biznesni samarali yuritishga ko'maklashadigan, ikki tomonlama soliqqa tortishning oldini olish to'g'risidagi kelishuvlar ham muhim rol o'ynaydi. Ikki tomonlama investitsiya bitimlari investor va qabul qiluvchi davlat o'rtasida (masalan, ekspropriatsiya va kompensatsiya masalalari bo'yicha) hamda bitimlarni talqin qilish bo'yicha davlatlar o'rtasida yuzaga keladigan nizolarni hal etish to'g'risidagi qoidalarni o'z ichiga oladi. Xalqaro huquqqa ko'ra, davlatlar chet el investitsiyalari uchun shartlarni belgilashda suveren huquqqa ega, biroq ikki tomonlama investitsiya bitimlari investorlar huquqlarini himoya qilish mexanizmlarini, shu jumladan, xalqaro arbitrajni rasmiylashtiradi va mustahkamlaydi.

Yevteyeva S.M. ta'kidlaganidek, rasmiy jihatdan simmetrik bo'lishiga qaramay, ikki tomonlama investitsiya bitimlari ko'proq investorlar manfaatlarini himoya qilishga yo'naltirilgan bo'lib, ularga o'ziga xos majburiyatlar yuklamaydi. Bunday shartnomalar asosiy kafolatlar sifatida investorlar uchun rejim o'rnatish, mulkni davlat ixtiyoriga o'tkazish qoidalari, kompensatsiya kafolatlari va nizolarni hal etish mexanizmlarini o'z ichiga oladi.

Hozirgi kunda dunyoda 2500 dan ortiq ikki tomonlama investitsiya shartnomalari amal qilmoqda. Ikki tomonlama investitsiya bitimlaridan tashqari, uch va undan ortiq mamlakatlar o'rtasida tuziladigan ko'p tomonlama investitsiya bitimlari ham mavjud. Ular xalqaro miqyosda investitsiyalash qoidalarini uyg'unlashtirishga qaratilgan. Investitsiyalarni ko'p tomonlama tartibga solishda Brettonvuds bitimlari asosida tashkil etilgan Xalqaro valyuta jamg'armasi (XVJ) va Xalqaro tiklanish va taraqqiyot banki (XTTB) kabi tashkilotlar muhim hissa qo'shgan. Keyinchalik transmilliy kapitallar harakatini tartibga solish Yevropa iqtisodiy hamjamiyati (YIH) va Iqtisodiy hamkorlik va taraqqiyot tashkiloti (IHTT) doirasida rivojlanib, xalqaro investitsiya me'yorlarini takomillashtirishga xizmat qildi.

Dissertatsiyada xalqaro huquqda investorlarning huquqlarini himoya qilish va majburiyatlarini tartibga solish asosan davlatlar o'rtasida tuziladigan ikki va ko'p tomonlama investitsiya shartnomalari orqali amalga oshiriladi, degan xulosaga kelingan. Bu shartnomalar xorijiy investitsiyalar uchun barqaror huquqiy asos yaratib, mulkni musodara qilishdan himoyalash kafolatlarini hamda nizolarni hal etish mexanizmlarini va kamsitmaslik tamoyillarini belgilaydi. Shu bilan birga, investitsiyalarni qabul qiluvchi davlatlar investorlar uchun qulay sharoitlarni ta'minlash majburiyatini oladi, kapital eksport qiluvchi davlatlar esa o'z investorlarini chet elda himoya qilishni kafolatlashga intiladi. Demak, davlat va investorlar manfaatlarini muvozanatini ta'minlaydigan huquqiy mexanizmlar moslashuvchan bo'lishi, davlatlarga jamoat manfaatlarini himoya qilish, investorlarga esa o'z sarmoyalari xavfsizligi uchun yetarli kafolatlar olish imkonini berishi lozim.

XULOSA

Bugungi xalqaro vaziyat sharoitida investorlarning huquq va majburiyatlarini himoya qilish muammolari tobora dolzarb tus olmoqda. Yuqorida aytilganlar bilan bog'liq ravishda maxsus ilmiy tadqiqot o'tkazishning ahamiyati ham ortib bormoqda.

“Xalqaro huquqda investorlarning huquq va majburiyatlarini ta'minlash: dolzarb muammolar va rivojlanish istiqbollari” mavzusidagi tadqiqot ishi davomida bir qator ilmiy-nazariy xulosalarga kelindi hamda amaliy taklif va tavsiyalar ishlab chiqildi.

I. Ilmiy-nazariy xulosalar:

1. Xalqaro investitsiya huquqi xalqaro investitsiya munosabatlarini tartibga soluvchi mustaqil huquq sohasi hisoblanadi. Bu xorijiy investorlarni himoya qilish bo'yicha davlatlarning huquq va majburiyatlarini qamrab olgan o'ziga xos tartibga solish predmeti, shuningdek, investitsiyalarning huquqiy asoslarini belgilovchi maxsus tamoyillar va normalar bilan tasdiqlanadi. U milliy huquqiy tizimlar va xalqaro huquq normalarini o'zida mujassam etgan bo'lib, bu uning nizolarni hal etish va investitsiya faoliyati ishtirokchilarining huquqlarini himoya qilishga yo'naltirilgan kompleks xususiyatini ta'kidlaydi.

2. Boshqa sohalardan farqli o'laroq, xalqaro investitsiya huquqi markazlashmaganlik xususiyatiga ega, chunki yagona ko'p tomonlama shartnoma yoki markaziy xalqaro tashkilot mavjud emas. U turli manbalarga, jumladan, ikki tomonlama va mintaqaviy bitimlarga, milliy qonunchilikka, xalqaro urf-odatlariga, arbitraj qarorlariga va investitsiya shartnomalariga asoslanadi.

3. Tadqiqot davomida huquqiy subyektlilik, huquq layoqati va muomala layoqati kabi tushunchalarni farqlashga urinishlar amalga oshirildi. Davlatning huquqiy subyektligi uning xalqaro huquqiy munosabatlar ishtirokchisi sifatida tan olinishini anglatadi, bu esa unga investitsiya bitimlarini tuzish va nizolarda qatnashish imkonini beradi. Bu xalqaro faoliyat uchun asos hisoblanadi. Davlatning xalqaro investitsiya munosabatlaridagi huquq layoqati uning investitsiya bitimlarida ishtirok etish, chet el investorlarini himoya qilish kabi huquq va majburiyatlarga ega bo'lish qobiliyatini anglatadi. Bu qobiliyat davlatning xalqaro huquq subyekti sifatida tan olinishiga bog'liq bo'lib, ichki qonunlar va xalqaro shartnomalar bilan tartibga solinadi. Muomala layoqati esa ushbu huquqlardan faol foydalanish va majburiyatlarni bajarish, jumladan, bitimlarni imzolash va amalga oshirish, nizolarni hal etishda ishtirok etishni tavsiflab beradi. Shunday qilib, huquq layoqati imkoniyatlarni, muomala layoqati esa bu imkoniyatlarning amalda ro'yobga chiqarilishini belgilaydi.

4. Xalqaro investitsiya nizolarini hal etishda nizoda ishtirok etayotgan davlatning suverenitetiga, shuningdek, xalqaro majburiyatlarni vijdonan bajarish tamoyiliga qat'iy rioya qilish hal qiluvchi ahamiyatga ega. Shu tariqa tomonlar investitsiyalarni taqdim etayotgan davlatning huquqiy maqomini hurmat qilishlari, o'z xalqaro majburiyatlarini bajarish jarayonida halollik va shaffoflikni namoyon etishlari lozim, bu esa nizolarning adolatli hamda qonuniy hal etilishini ta'minlaydi.

5. Xalqaro investitsiya huquqi nafaqat universal, mintaqaviy va ikki tomonlama darajalarda, balki turli subyektlar: davlatlar, xalqaro tashkilotlar, jismoniy va yuridik shaxslar, shu jumladan, transmilliy kompaniyalar o'rtasidagi munosabatlarni ham tartibga soladi. Bu xalqaro investitsion munosabatlarning ko'p qatlamli tabiatini ko'rsatib, unda ham xususiy, ham ommaviy manfaatlar o'zaro ta'sirda bo'lishini aks ettiradi.

6. Xalqaro investitsiyalar sohasida davlatlar o'rtasidagi nizolar xalqaro shartnomalar va bitimlarni talqin qilish hamda qo'llashdagi kelishmovchiliklar tufayli kelib chiqishi mumkin. Bu esa tomonlarning huquq va manfaatlarini buzib, huquqiy noaniqliklarni keltirib chiqarishi mumkin. Bunday nizolar xalqaro investitsiyaviy munosabatlarda adolat va barqarorlikni ta'minlash uchun samarali hal etilishi lozim.

7. Investorlarning huquq va majburiyatlarini ta'minlashda davlatlarning suvereniteti masalalariga aniqlik kiritildi. Bu milliy yurisdiksiya va xalqaro majburiyatlar o'rtasidagi muvozanatni yaxshiroq tushunishga yordam beradi. Natijada huquqni qo'llash yaxshilanib, davlat manfaatlari va investitsiya huquqlari o'rtasidagi ziddiyatlar xavfi kamayadi.

8. Davlatlar xalqaro investitsiya huquqining asosiy subyektlari hisoblanadi. Bu ularning xalqaro shartnomalar va tamoyillardan kelib chiqadigan o'ziga xos huquq va majburiyatlari bilan bog'liq. Xalqaro investitsiyalar uchun me'yoriy bazani shakllantirishda ularning o'rni beqiyosdir.

9. Suverenitet davlatning asosiy belgisi bo'lib, u mamlakat ichkarisida ham, xalqaro maydonda ham uning mustaqilligi va oliy hokimiyatini belgilaydi. U davlatlarning xalqaro munosabatlardagi tengligiga, shuningdek, ularning mustaqil qaror qabul qilish va xalqaro huquqning boshqa subyektlari bilan shartnomaviy munosabatlarga kirishish qobiliyatiga asos bo'lib xizmat qiladi. Bugungi globallashuv sharoitida davlatlar chet el investitsiyalarini jalb qilish va o'z suverenitetini himoya qilish o'rtasidagi muvozanatni topishi talab etilmoqda. Investitsiya bitimlarini imzolash orqali davlatlar investorlarga kafolatlar berish evaziga o'z suveren huquqlarini qisman cheklaydilar. Bu iqtisodiyotning rivojlanishiga yordam bersa-da, ayniqsa, strategik sohalarda suveren huquqlarga tahdid solishi mumkin.

10. Xalqaro investitsiya bitimlari xorijiy investorlarning huquqiy himoyasini ta'minlashda muhim rol o'ynaydi. Ular investitsiyalarni himoya qilishning huquqiy asoslarini yaratadi va chet el kapitali bilan munosabatda bo'lish me'yorlarini belgilaydi. Bunday bitimlar davlatlarga iqtisodiyotning strategik muhim tarmoqlari ustidan nazoratni saqlab qolish imkonini beradigan qoidalarni o'z ichiga olishi, shuningdek, jamoat manfaatlarini ko'zlab tartibga solish imkoniyatini nazarda tutishi muhimdir. Ushbu kelishuvlar shartlarining shaffofligi va adolatliligi yuzaga kelishi mumkin bo'lgan nizo hamda kelishmovchiliklarning oldini olishga yordam beradi.

11. Xalqaro investitsiya munosabatlarida davlatning o'ziga xos huquqiy holatini inobatga olgan holda bu munosabatlarda ishtirok etuvchi davlatlarning umumiy e'tirof etilgan huquq va majburiyatlari ro'yxatini ishlab chiqish g'oyat muhim hisoblanadi.

12. Hozirgi sharoitda xalqaro investitsiyaviy nizolarni huquqiy tartibga solish xalqaro huquq va milliy qonunchilik o‘zaro aloqasi orqali amalga oshiriladi, bunda xalqaro huquq yetakchi o‘rin egallaydi. Buning sababi shundaki, xalqaro huquq normalari chet el investitsiyalari masalalarini qamrab oladi va ularni jalb etish uchun ikki tomonlama investitsiya bitimlari keng qo‘llanadi. Bunday bitimlarning buzilishi davlatlarning xalqaro javobgarligiga olib keladi. Xalqaro normalar va milliy qonunchilik o‘rtasidagi o‘zaro ta‘sirning samaradorligi davlatlarning xalqaro-huquqiy javobgarligiga ham, umuman investitsiya muhitiga ham bevosita ta‘sir ko‘rsatadi.

13. Investitsiya faoliyatini tartibga soluvchi normalarni unifikatsiyalash bugungi kunda obyektiv qiyinchiliklarga duch kelmoqda. Nizolarni hal qilishga asos bo‘luvchi yangi normalar unifikatsiyaga intilayotgan bo‘lsa-da, bunday ishlar bo‘yicha vakolatli organlar soni va protsessual xususiyatlarning xilma-xilligi ortib bormoqda. Natijada investitsiyaviy nizolarni hal etishning yagona va yaxlit xalqaro-huquqiy mexanizmi mavjud emasligi bilan bog‘liq muammo yuzaga kelmoqda. Investitsiyaviy nizolarni hal etishning yagona xalqaro-huquqiy mexanizmi yo‘qligi, huquqiy tizimlarning xilma-xilligi, ularning har biri o‘ziga xos normalar va yondashuvlarga ega ekanligi bilan izohlanadi. Davlatlar va investorlarning qarama-qarshi manfaatlari yagona qoidalar bo‘yicha umumiy kelishuvga erishishni qiyinlashtirmoqda. Bundan tashqari, turli tartib va qoidalarga ega bo‘lgan arbitraj organlari sonining ko‘payishi yondashuvlarning parchalanishiga olib kelmoqda va yaxlit mexanizmni yaratishni murakkablashtirmoqda.

II. Amaldagi qonun hujjatlarini takomillashtirish bo‘yicha takliflar:

14. O‘zbekiston Respublikasining “Investitsiyalar va investitsiya faoliyati to‘g‘risida”gi Qonuniga quyidagi o‘zgartirish va qo‘shimchalar kiritish taklif etiladi:

1) 10-moddaning 1-bobi birinchi qismidagi “Investor haqli” degan so‘zlar “Investorlar teng huquqlarga ega” degan so‘zlar bilan almashtirilishi maqsadga muvofiq.

10-moddaning 2-bobi quyidagi mazmundagi yangi band bilan to‘ldirilishi maqsadga muvofiq:

2) “investitsiya tavakkalchiliklarini baholash va asosli qarorlar qabul qilish uchun zarur bo‘lgan axborotdan, shu jumladan, investitsiya faoliyatiga oid normativ-huquqiy hujjatlar haqidagi, shuningdek, investitsiya obyektlarining moliyaviy va iqtisodiy holati to‘g‘risidagi ma‘lumotlardan foydalanish”.

19-moddaning 3-bobi ikkinchi qismi quyidagi mazmundagi band bilan to‘ldirilishi maqsadga muvofiq:

3) “Agar O‘zbekiston Respublikasining keyingi qonun hujjatlari investitsiyalash shartlarini yomonlashtirsa, investorlarga nisbatan investitsiya kiritilgan paytdan boshlab o‘n yil davomida investitsiya kiritilgan sanadagi amalda bo‘lgan qonun hujjatlari qo‘llanadi. Investor o‘z xohishiga ko‘ra yangi qonun hujjatlarining uning investitsiyalash shartlarini yaxshilaydigan qoidalarini qo‘llash huquqiga ega”.

4) O‘zbekiston Respublikasining 2019-yil 25-dekabrda qabul qilingan “Investitsiyalar va investitsiya faoliyati to‘g‘risida”gi O‘RQ–598-sonli Qonuni 57-

moddasi ikkinchi qismi quyidagi tahrirda bayon etilishi taklif etiladi: “xorijiy davlatlar hududida investitsiyalarni yo‘naltirishni tartibga solish ushbu Qonunga, investitsiya faoliyati amalga oshirilayotgan davlatning qonun hujjatlariga, shuningdek, O‘zbekiston Respublikasining xalqaro shartnomalariga muvofiq amalga oshiriladi”.

5) 9-bob, 50-moddaga qo‘shimcha 50¹-modda kiritilib, unda aynan davlat va investor o‘rtasidagi shartnoma shartlari quyidagicha bayon qilinishi taklif etiladi:

“50¹-modda. Investor huquqlarining boshqa shaxsga o‘tishi

Agar chet davlat yoki u vakolat bergan davlat organi O‘zbekiston Respublikasi hududida amalga oshirilgan investitsiyalarga nisbatan berilgan kafolat (sug‘urta shartnomasi) bo‘yicha investor foydasiga to‘lovlarni amalga oshirsa va bunda investorning ko‘rsatib o‘tilgan investitsiyalarga bo‘lgan huquqlari (talablari) ushbu chet davlatga yoki uning vakolatli organiga o‘tsa, O‘zbekiston Respublikasida huquqlarning bunday o‘tishi (talablardan boshqa shaxs foydasiga voz kechish) faqat investor ilgari O‘zbekiston Respublikasi hududida investitsiyalarni amalga oshirgan va (yoki) shartnomada nazarda tutilgan barcha majburiyatlarni bajargan taqdirdagina qonuniy deb e‘tirof etiladi”.

6) 12-bobning 63-moddasi birinchi qismiga quyidagi mazmunda qo‘shimcha kiritilishi maqsadga muvofiq:

“Chet el investitsiyalari bilan bog‘liq bo‘lgan va chet ellik investorning O‘zbekiston Respublikasi hududida investitsiya faoliyatini amalga oshirish chog‘ida yuzaga keladigan nizo (investitsiyaviy nizo) muzokaralar yo‘li bilan, shu jumladan, ekspertlarni jalb etgan holda yoki O‘zbekiston Respublikasi Prezidenti huzuridagi Tadbirkorlik subyektlarining huquqlari va qonuniy manfaatlarini himoya qilish bo‘yicha vakilga (bundan buyon matnda Tadbirkorlarning huquqlarini himoya qilish bo‘yicha vakil deb yuritiladi) investitsiya faoliyati sohasida murojaat qilish orqali hal etiladi”.

III. Amaliy takliflar va xulosalar:

15. Muallif tomonidan BMT Bosh Assambleyasining 2024-yil 20-sentabrdagi Kelajak uchun Pakt rezolyutsiyasi loyihasiga tayyorlangan takliflarida quyidagi tavsiyalar ishlab chiqilgan:

1) 58-bandda aks ettirilgan “ijtimoiy mas‘uliyat va barqaror rivojlanish standartlariga rioya qilish”;

2) 4-harakatning (k) bandida aks ettirilgan “rivojlanayotgan mamlakatlarga barqaror rivojlanishga yo‘naltirilgan investitsiyalarni ko‘paytirishni rag‘batlantirish borasida, jumladan, qulay me‘yoriy-huquqiy va investitsiya muhitini yaratish orqali qo‘llab-quvvatlashni ta‘minlash”.

3) “Fan, texnika va innovatsiyalarga investitsiyalarni jalb etish va qo‘llab-quvvatlash hamda rivojlanayotgan mamlakatlarda investitsiyalar va tadbirkorlikka, mahalliy innovatsion ekotizimlarni rivojlantirishga yordam beradigan qulay sharoitlarni yaratish orqali hamkorlikni chuqurlashtirish”, bu 29-bandning (f)-harakatida o‘z aksini topgan.

16. Investorlar va davlatlar o‘rtasidagi nizolarni hal etishda arbitrajdan foydalanish davomida ushbu yondashuvning jiddiy kamchiliklari aniqlandi. Hozirgi

kunda ko‘plab xalqaro forumlarda xalqaro investitsiya arbitrajini isloh qilish zarurati faol muhokama etilmoqda. Ushbu munozaralar doirasida arbitrajdan doimiy faoliyat yurituvchi xalqaro sud yordamida nizolarni hal qilish tizimiga o‘tish g‘oyasi ilgari surilmoqda. 2018-yil mart oyida Yevropa Ittifoqi Kengashi ko‘p tomonlama investitsiya sudini tashkil etish bo‘yicha muzokaralarni boshlashni ma‘qulladi. Bu g‘oya Yevropa Ittifoqining Vyetnam va Kanada bilan kelishuvlarini ishlab chiqishda ham qo‘llab-quvvatlandi.

Ko‘p tomonlama investitsiya sudi investitsiya nizolarini hal etishning mavjud tizimlariga nisbatan bir qator muhim afzalliklarga ega. Birinchidan, u nizolarni hal etishda barqarorlik va bashorat qilish imkoniyatini oshiradi, natijada tomonlar hakamlarning turli qarorlariga emas, balki yagona standartlar va amaliyotlarga tayanishi mumkin. Ikkinchidan, u shaffoflik va hisobdorlikni kuchaytiradi, chunki uning faoliyati va qarorlari jamoatchilik nazorati ostida bo‘ladi va qat‘iyroq qoidalarga bo‘ysunadi. Uchinchidan, doimiy sud organini tashkil etish “hakamlar jarohati” muammosini bartaraf etishga yordam beradi. Bu muammo hakamlarning mustaqilligi, xolisligiga shubha tug‘dirishi mumkin, chunki ular yangi ishlar izlashi va ma‘lum tomonlar bilan aloqalarni saqlab qolishi mumkin. Nihoyat, MIC nizolarni yanada adolatliroq hal etishga ko‘maklashadi, chunki sudyalalar uzoq muddatga tayinlanadi va xususiy arbitraj kelishuvlar asosida emas, balki malakasiga ko‘ra tanlanadi. Bu esa tarfkashlik va siyosiy bosim ehtimolini kamaytiradi. Natijada barqaror xalqaro investitsiya muhiti uchun muhim bo‘lgan investitsiya nizolarini hal etishning yanada adolatli, shaffof va samarali tizimini ta‘minlash maqsadida ko‘p tomonlama investitsiya sudini tashkil etish zarur.

17. O‘zbekiston Respublikasi Investitsiyalar, sanoat va savdo vazirligi huzurida AQShdagi Xorijiy investitsiyalar bo‘yicha qo‘mitaga (CFIUS) o‘xshash maxsus organ tashkil etish xalqaro investitsiya shartnomalarini tuzishda davlat suverenitetini ta‘minlash nuqtayi nazaridan muhim tashabbus hisoblanadi. Bunday organ milliy xavfsizlik, iqtisodiy suverenitet va davlatning strategik manfaatlariga bo‘lgan potensial tahdidlarni aniqlash maqsadida xorijiy investorlar bilan tuziladigan investitsiya shartnomalari va bitimlarini dastlabki tahlil qilish va huquqiy ekspertizadan o‘tkazish vazifasini bajaradi. An‘anaviy idoralararo kelishuvlardan farqli o‘laroq, ushbu organ xalqaro investitsiya huquqi, tashqi iqtisodiy siyosat va milliy xavfsizlik sohasida maxsus ekspertizaga ega bo‘ladi.

18. Hozirgi kunda xalqaro investitsiyalar ko‘plab ikki tomonlama va mintaqaviy shartnomalar bilan tartibga solinmoqda, bular ko‘pincha bir-biriga zid normalarni o‘z ichiga oladi. Bu davlatlar hamda investorlar uchun huquqiy noaniqlikni keltirib chiqaradi. Ushbu muammolarni universal kelishuv investorlar huquqlarini himoya qilish va davlatlarning suveren manfaatlarini hurmat qilishni ta‘minlaydigan yagona tartibga solish standartlarini o‘rnatish orqali bartaraf etish mumkin. Bunday shartnoma kamsitishga yo‘l qo‘ymaslik va kompensatsiyasiz milliylashtirish to‘g‘risidagi qoidalarni, shuningdek, biznes yuritishning shaffof shartlarini o‘z ichiga olishi lozim. Shu bilan birga, investorlar ekologik, ijtimoiy va korrupsiyaga qarshi normalarga rioya qilishlari shart bo‘lib, bu tomonlarning manfaatlarini muvozanatlashtirish va xalqaro investitsiyalar uchun barqaror huquqiy asos yaratishga yordam beradi.

Ko'p tomonlama investitsiyalarni kafolatlash agentligi (MIGA) huzurida Investitsiya munosabatlarini tartibga solish bo'yicha universal xalqaro bitimning ta'xis etilishi MIGA Jahon banki guruhining investitsion xatarlarni boshqarish va barqaror rivojlanishga ko'maklashish sohasida katta tajribaga ega bo'lgan ixtisoslashgan instituti ekanligi bilan asoslanadi. Investitsiya faoliyatining iqtisodiy o'sish va rivojlanish masalalari bilan chambarchas bog'liqligini hisobga olgan holda MIGA doirasida universal kelishuvni yaratish mavjud investitsiya bitimlari o'rtasidagi huquqiy bo'shliqlar va qarama-qarshiliklarni bartaraf etish, ularning uyg'unligini ta'minlash imkonini beradi. MIGA allaqachon investorlarni siyosiy xatarlardan himoya qilish masalalari bilan faol shug'ullanmoqda va keng qamrovli hamda samarali xalqaro standartlarni ishlab chiqish uchun zarur vakolatlar va resurslarga ega.

MIGA homiyligidagi universal kelishuv investorlar huquqlarini himoya qilish, asossiz kamsitishlarning oldini olish va investitsiya muhitining shaffofligini ta'minlash bo'yicha yagona qoidalarni belgilashi mumkin. Bundan tashqari, u investitsiya faoliyatining barqaror rivojlanish tamoyillariga, davlatlarning atrof-muhitni muhofaza qilish sohasidagi xalqaro majburiyatlari va ijtimoiy standartlarga muvofiqligini ta'minlaydi. Bu investorlarning ishonchini mustahkamlash, shuningdek, davlatlar va biznes manfaatlarini o'rtasida zarur muvozanatni yaratish, jahon iqtisodiyotining barqaror va adolatli rivojlanishiga ko'maklashish imkonini beradi.

**SCIENTIFIC COUNCIL No. DSc.07/03.06.2023. Yu.22.04
FOR AWARDING THE SCIENTIFIC DEGREES AT
TASHKENT STATE UNIVERSITY OF LAW**

TASHKENT STATE LAW OF UNIVERSITY

RAKHMONOV JALOLIDDIN AKMALOVICH

**ENSURING THE RIGHTS AND OBLIGATIONS OF INVESTORS IN
INTERNATIONAL LAW: CURRENT PROBLEMS AND DEVELOPMENT
PROSPECTS**

12.00.10 – International law

ABSTRACT
of doctoral (PhD) dissertation on legal sciences

Tashkent – 2025

The theme topic of the doctoral dissertation (PhD) was registered at the Supreme Attestation Commission under Ministry of higher education, science and innovations of the Republic of Uzbekistan number № B2023.3.PhD/Yu1201

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Scientific supervisor:

Ismailova Gulnoza Saydiganikhodjayevna
Doctor of Science in Law, Professor

Official opponents:

Umarkhanova Dildora Sharipkhanovna
Doctor of Science in Law, Professor

Yakubkhodjayev Umid Anvarkhodjayevich
Doctor of Science in Law

The leading organization:

Law Enforcement Academy of the Republic of Uzbekistan

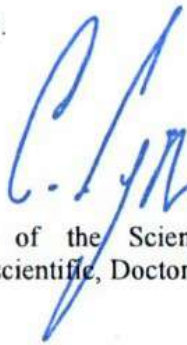
The defense of the dissertation will be held on June 19th, 2025 year at 12:00 at the Session of the Scientific Council No. DSc.07/03.06.2023. Yu.22.04 at Tashkent State University of Law (Address: 100047, Sayilgokh street, 35. Tashkent city. Phone: (99871) 233-66-36; Fax: (99871) 233-37-48, e-mail: info@tsul.uz).


The doctoral dissertation is available at the Information Resource Center of Tashkent State University of Law (registered as № 1399). (Address: 13 Amir Temura Street, 100047. Tashkent city. Phone: (998) 71-233-66-36)


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S.S. Gulyamov
Chairman of the Scientific Council for
awarding scientific, Doctor of Science in Law,
Professor


Sh.N. Rakhmanov
Secretary of the Scientific Council for
Awarding Academic Degrees, Candidate of
Legal Sciences, Associate Professor


D.N. Makhkamov
Chairman of the scientific seminar at the
Council for Awarding Academic Degrees,
Doctor of Science in Law, Professor

INTRODUCTION (Abstract of the dissertation for the degree of Doctor of Philosophy (PhD) in Law)

Relevance and demand for the research topic. In today's world, where globalization and integration continue to accelerate, the issue of ensuring the rights and obligations of investors in international law is becoming increasingly important, particularly given the estimated amount of foreign direct investment flows in 2023, estimated at \$1.37 trillion¹.

Globally investors may encounter various risks, such as political instability, nationalization, changes in legislation, and other unforeseen circumstances. In this context, research into the legal protection of investors, the development of effective mechanisms for dispute resolution and ensuring fair and equal treatment becomes necessary. In order to attract and retain investors, sustainable legal mechanisms are needed that protect their interests while allowing states to maintain sovereignty and protect public interests at the same time. Public international law, within the framework of specialized international organizations of a universal nature, plays a coordinating role, characterized by the harmonization of the jurisdiction of contracting states in the implementation of investment policies related to foreign investments and the provision of mutual guarantees in the event of political risks.

In their speech at the III Tashkent International Investment Forum on May 2, 2024, the President of the Republic of Uzbekistan Mirziyoyev Sh.M. outlined key measures to strengthen the protection of investors' rights. It is intended that a new law, "On Investments", be passed in accordance with World Trade Organization standards, an international commercial court be established, and the land lease term for foreign investors will be doubled². As well, it was noted that over the past few years, we have been absorbing over 60 billion dollars in foreign investment in our country. International financial institutions have invested more than 14 billion dollars into the social sphere and infrastructure of our country in recent years. Foreign investment has almost doubled in the past year alone³. Uzbekistan has expressed its desire to create a favorable business and investment environment which facilitates foreign investment as a result of this statement. The aim of these measures is to improve the conditions for investors and to ensure that their rights and obligations are more effectively and reliably met as a result of the strategic direction of the country's development.

This dissertation research will to a certain extent serve to fulfill the tasks provided for in the Washington Convention on the Procedure for the Settlement of Investment Disputes between States and Foreign Persons, the Seoul Convention on the Establishment of an Agency Guaranteeing the Multilateral Distribution of Investments, the Economic Procedural Code of the Republic of Uzbekistan (2018), the Law of the Republic of Uzbekistan "On Investments and Investment Activities" (2020), Decree of the President of the Republic of Uzbekistan dated January 28,

¹ Global Investment Report 2024 - Investment Promotion and Digital Government. United Nations Organization. 2024 P. 4.

² Мухамеджанов О., Надежный и долгосрочный партнер для иностранных инвесторов. Правда Востока, 2024 г.

³ Speech by the President of the Republic of Uzbekistan Sh.M. Mirziyoyev on May 2, 2024 at the III Tashkent International Investment Forum. // Official website of the President of the Republic of Uzbekistan[Electronic resource]. - URL: <https://president.uz/ru/lists/view/7194>.

2022 No. DP-60 “On the development strategy of the new Uzbekistan for 2022-2026” and other regulatory legal acts in this area.

Compliance of the research with the priority areas of development of science and technology of the Republic. The dissertation research is based on the priority direction, which makes the principles of justice and the rule of law key and necessary conditions for development, as stated in Section II of the “Development Strategy of the New Uzbekistan for 2022-2026”, which provides for the development of science and technology in our country.

This highlights the need for a more detailed analysis of the protection of investors’ rights and obligations in international public law, as well as the development of proposals and recommendations for their improvement. Given the significance and prospects of this study, its implementation may lead to new scientific results. A deep analysis of the mechanisms of international public law will help identify weaknesses and propose improvements, including harmonization of legislation with international standards, improved law enforcement and increased protection for foreign investors.

The degree to which the problem has been studied. The topic of research on general issues of guarantees of rights and obligations of investors was studied by such scientists of our country as: Akhunov Sh. A.⁴, Kimsanov D., Mukhamedzhanov O., Rustambekov I.I.⁵, Achilova L.I.⁶, Rakhimov B.⁷, Muminov B.⁸, Ochilov B.E.⁹, Odilkoriev H. T., Khakimov R.T.¹⁰, Inogomov N.R., Samarkhodzhaev B.B. and others.

In foreign scientific literature, the following works can be highlighted on individual issues of the problem we are studying: Ayupova A.Z.¹¹, Velyaminova G.M., Volova L.I., Danelyan A.A.¹², Dmitrieva G.K.¹³, Doronina N.G.¹⁴, Klimenko V. M., Krupko S. I., Kostyunina G. M.¹⁵, Ksenofontova K. E., Levina D. B., Lukashuka I. I.¹⁶, Lukicheva D.A., Martens F.F., Matulis N.P., Papushina I.E.,

⁴Axunov Sh.A., Davlatlar ishtirokidagi investitsion nizolarni xalqaro-huquqiy hal qilish vositalari. Yur. f. b. fals. dokt. ... dis. Toshkent, 2023-y.

⁵Рустамбеков И., Кимсанов Д., Правовые реформы в сфере улучшения инвестиционного климата Узбекистана // Оценка инвестиций. 2019. №1 (13).

⁶Ачилова Л. И., Инвестиционное право. Учебное пособие. – Т.: издательство ТГЮУ, 2021. – 172 с

⁷Рахимов Б., (2020). Новые законодательные нормы разрешения инвестиционных споров в Республике Узбекистан. Обзор законодательства Узбекистана, (3).

⁸Muminov B., Latest Amendments in the Foreign Investment Laws of Uzbekistan: Manifestation of Serious Ambitions for Change?, 4(1) RLJ (2016).

⁹Очилов Б. Э., Генезис и перспективы развития суверенитета и международной правосубъектности Республики Узбекистан (теоретико-прикладной анализ).

¹⁰Хахимов Р. Т., Умарахунов И. М., Международно-договорные инициативы Республики Узбекистан. Московский журнал международного права. 2001; (2):252–275.

¹¹Аюпов А.З., Международно-правовое и внутригосударственное регулирование иностранных инвестиций. Дис. ... канд. юрид. н. Москва, 2008 г.

¹²Данельян А.А., Международно-правовой режим иностранных инвестиций. Дис. ... докт. юрид. н. – М., 2016.

¹³Дмитриева Г.К., Викторова Н.Н., Суверенитет государства в контексте привлечения иностранных инвестиций // Актуальные проблемы российского права. 2018. № 12 (97).

¹⁴Доронина Н.Г., Многосторонние международные договоры и российское законодательство об инвестициях // Журнал российского права. – 2002. – № 11.

¹⁵Костюнина Г. М., Ливенцев Н. Н., Международная практика регулирования иностранных инвестиций. Учебное пособие — М.: Анкил. 2001.

¹⁶Лукашук И. И., Глобализация, государство, право XXI век. М.: Спарк, 2000.

Piskun L., Popova E.V., Protopopova P.O., Rachkova I.V.¹⁷, Saenko A.M.¹⁸, Sukhareva A.Ya., Tywuk K., Trapeznikova V.A., Tulaeva M.Yu., Farkhutdinov A.Z.¹⁹, Tsirina M.A.²⁰, Chernichenko S.V.²¹, Shumilova V.M., Shomurodova I.Yu.²², Yulova D.V.²³, and others.

The connection of the dissertation research with the plans of scientific research work of the higher educational institution where the dissertation was completed. The research was conducted within the framework of the research plan of the Tashkent State University of Law.

Purpose of the study. Studying current challenges and potential directions for the development of legal mechanisms to protect the interests of investors in the international arena, as well as in the development of proposals and recommendations aimed at increasing the effectiveness of legislation and law enforcement practice in this area.

Research objectives:

study the role and place of international investment law in the system of international law;

analysis of subjects of international investment agreements;

distinction between such concepts as legal personality, legal capacity and legal capacity of states in international investment relations;

study of the issues of state sovereignty in the context of protecting the rights and obligations of investors;

study of problems of ensuring the interests of subjects of international investment relations in international judicial bodies and arbitrations.

study of international legal issues of state participation in the settlement of investment disputes;

study of the development of bilateral and multilateral investment agreements;

analysis of the improvement of legal mechanisms for ensuring a balance of interests of subjects of international investment relations;

development of proposals to improve the protection of the rights and obligations of investors;

The object of the study. A set of international legal relations related to the protection of the rights and obligations of investors.

Subject of research. Norms regulating the rights and obligations of investors, scientific and theoretical aspects, and current problems related to law enforcement practice in this area.

¹⁷Рачков И. В., Согласие государства на рассмотрение международных инвестиционных споров. // Международное правосудие. 2014. № 4 (12).

¹⁸Саенко А. М., Соотношение международного и внутреннего права в инвестиционной сфере в контексте глобализации (проблемы теории и практики). Дис. ... канд. юрид. н. Москва, 2007.

¹⁹Фархутдинов И. З., Международно-правовое регулирование инвестиционных отношений: теория и практика. Дис. ... докт. юрид. н. – М., 2006.

²⁰Цирин М. А., Особенности разрешения инвестиционных споров. // Вестник Волгоградской академии МВД России. 2016. №4 (39).

²¹Международное право / под ред. А. А. Ковалева, С. В. Черниченко. М., 2008.

²²Шомуродов И. Ю., Международно-правовое сотрудничество государств в сфере разрешения инвестиционных споров. Дис. ... канд. юрид. н. – М., 2011.

²³Юлов Д. В., Взаимодействие национально-правового и международно-правового регулирования правовых гарантий иностранных инвесторов. // Журнал российского права. 2021. № 4.

Research methods. To achieve the stated goal and solve the set tasks, the following methods were used in the study: historical and legal analysis and synthesis, comparative legal, systemic and structural analysis, analysis of legal literature and regulations, generalization and analysis of law enforcement practice.

Scientific novelty of the research is as follows:

it is substantiated that investment projects should adhere to the principles of social responsibility and sustainable development, which will help reduce their negative impact on the environment and society;

the need to support developing countries in increasing their investments aimed at sustainable development by creating a more favorable legislative and investment climate is justified;

the importance of deepening cooperation through attracting and supporting investments in science, technology, and innovation in developing countries is emphasized. Additionally, the need to stimulate investment and entrepreneurship, as well as create favorable conditions for the development of local innovation ecosystems, is substantiated;

the necessity of establishing a comprehensive legal approach in the legislation of the Republic of Uzbekistan to regulate foreign investment activities is justified. This approach should ensure a balance between Uzbekistan's national legislation and international law, compliance with national legal norms, harmonization with international obligations, and create a legal framework to minimize legal issues for participants in investment activities.

Practical results of the research is as follows:

the legal capacity and legal nature of states' participation in this process are substantiated. The key concepts and regulations governing investors' rights are examined, and the mechanisms for states to implement their obligations and rights in international investment relations are analyzed;

it is substantiated that the problems of state sovereignty in ensuring the rights and obligations of investors arise from the conflict between national interests and international obligations. Sovereignty allows states to pursue domestic policies and make decisions, such as changes in legislation or nationalization, which can negatively affect investments and violate the rights of investors. It is important to find a balance between the state's right to internal changes and its international obligations to protect investments;

it is substantiated that ensuring the interests of subjects of international investment relations in international judicial bodies and arbitrations requires a special approach. The study reveals the need to create effective mechanisms for resolving such disputes, taking into account specific political and legal conditions. Recommendations are given for improving international and national dispute resolution mechanisms;

substantiates international legal issues of state participation in the resolution of investment disputes, including issues of the legal nature of their participation and interaction with various judicial and arbitration bodies. The study identifies

problems of insufficient coordination and legal gaps in international mechanisms and proposes solutions to improve the efficiency and fairness of dispute resolution;

a legal analysis of bilateral investment agreements and multilateral investment agreements was conducted. The mechanisms for protecting investments, the obligations of host states and the rights of investors, as well as the procedure for resolving disputes were considered. Particular attention was paid to legal instruments that ensure the stability and predictability of the investment environment, as well as the impact of international standards on the regulation of investment relations;

Reliability of research results. The reliability of the research results is ensured by the use of appropriate methods, theoretical approaches, analysis of the relationship between international experience and national legislation, as well as the implementation of the obtained conclusions, proposals and recommendations in practical activities. This is confirmed by the fact that the research results were implemented in practice, published in scientific publications and received approval from authorized bodies.

Scientific and practical significance of the research results. The issue of ensuring the rights and obligations of investors, its significance in international law and impact on the development of the country, is becoming increasingly relevant. This is reflected in the increase in knowledge and skills of students and applicants, which can be successfully integrated into the educational process, as well as used to conduct new scientific research in this area. The results of the study offer an in-depth analysis of the current problems and challenges faced by investors and states in the field of international law, and represent a valuable contribution to understanding and solving these issues.

Besides, the results of the study can be effectively used to analyze current scientific problems in this area, as well as to develop recommendations and practical solutions aimed at improving the investment climate and protecting investors' rights. These results can be applied in teaching disciplines such as "International Public Law", "International Investment Law", "International Economic Law", and others. They can serve as a basis for creating lecture materials, teaching aids and course programs, as well as supporting research activities. Moreover, the study contributes to raising legal awareness and culture among citizens.

Implementation of research results. Based on the results of the conducted research on ensuring the rights and obligations of investors in international law, current problems and development prospects:

the proposal to comply with the standards of social responsibility and sustainable development is reflected in paragraph 58 of the "Pact for the Future" adopted by the UN General Assembly on September 22, 2024 (Act of the Permanent Mission of the Republic of Uzbekistan to the United Nations dated November 7, 2024). The implementation of the principles of social responsibility and sustainable development has helped to reduce the negative impact of investment projects on the environment and society. This served to create a foundation for long-term interests for both investors and host countries;

the proposal to support developing countries in stimulating increased investment in sustainable development, including through the creation of a more favorable regulatory and investment environment, is reflected in paragraph (k) of Action 4 of the “Pact for the Future” adopted by the UN General Assembly on September 22, 2024 (Act of the Permanent Mission of the Republic of Uzbekistan to the United Nations dated November 7, 2024). This will further strengthen cooperation between developing countries, international organizations, financial institutions, and developed countries. This serves to facilitate the exchange of experience, provision of financial support, and delivery of technical assistance;

the proposal to deepen cooperation by attracting and supporting investments in science, technology and innovation in developing countries, as well as creating favorable conditions for investment and entrepreneurship, promoting the development of local innovation ecosystems, is reflected in paragraph (f) of Action 29 of the “Pact for the Future” adopted by the UN General Assembly on September 22, 2024 (Act of the Permanent Mission of the Republic of Uzbekistan to the United Nations dated November 7, 2024) This has served to strengthen multilateral and bilateral cooperation through the conclusion of agreements aimed at protecting foreign investments, as well as to develop special agreements that include commitments by states to stimulate innovation and simplify investment activities;

the proposal that the regulation of the direction of investments in the territory of foreign states is carried out in accordance with this Law, the legislation of the state in whose territory the investment activity is carried out, as well as international treaties of the Republic of Uzbekistan Law which was reflected in the second part of Article 57 of the Law of the Republic of Uzbekistan “On Investments and Investment Activities” No. - 598 dated 25.12.2019 (Act of the Committee of the Legislative Chamber of the Republic of Uzbekistan dated 15.10.2024). The implementation of this proposal served to ensure a balance between national legislation and international law. When carrying out investment activities in foreign countries, it is necessary to comply with the national legislation of Uzbekistan, as well as work in harmony with international law and treaties.

As a result of this, initiatives were implemented to demonstrate the commitment of the international community to social responsibility and sustainable development, to strengthen investor confidence, to create a stable investment environment and to expand international partnership opportunities.

Approbation of the research results. The research findings were discussed at 4 scientific and practical conferences, including 2 international and 2 republican scientific and practical conferences.

Publication of research results. A total of 11 scientific articles have been published on the dissertation topic (2 in foreign journals, including 1 scientific article in a Scopus and Web of Science indexed journal).

Structure and scope of the dissertation. The dissertation consists of an introduction, three chapters, including 8 sections, a conclusion and a list of references. The volume of the dissertation is 150 pages, which includes the theoretical and practical parts of the research.

MAIN CONTENT OF THE DISSERTATION

The introduction of the dissertation highlights the relevance and necessity of researching this topic, the alignment of the research with priority areas of science and technology development in the Republic, the extent to which the problem has been studied, and the correspondence of the dissertation research to the scientific plans of the higher educational institution where the dissertation was carried out. It also outlines the purpose and objectives of the research, its object and subject, methods, scientific novelty and practical results, reliability of its findings, scientific and practical significance, implementation and testing of research results, publications on the research topic, and the structure and volume of the dissertation.

Laying the foundation for subsequent chapters, the first chapter of the dissertation entitled **“Theoretical Foundations of Ensuring the Rights and Obligations of Investors in International Law”** is devoted to the scientific and theoretical analysis of legal regulation of investment activities in international law. It explores the main approaches to defining the rights and obligations of investors and examines key concepts used in international legal literature, such as “international investment law”, “legal regime of foreign investments”, and “protection of investors in international law”.

According to the author, international investment law is not an isolated legal system, but is closely connected to international public law. This is evident, firstly, in the fact that investment law norms are enshrined in international treaties governed by the general principles of international law. Secondly, international investment law intersects with such fields as human rights. Moreover, institutional changes, such as the transparency of arbitration procedures, demonstrate the influence of international public law on investment disputes.

Bogatyrev A.G. also emphasizes that the formation of this branch of law occurred as a result of a long process of evolution of legal norms, starting from customary international law and ending with modern investment agreements²⁴. Thus, international investment law is not an autonomous system, but rather a dynamically developing branch formed within the framework of the international legal order.

Furthermore, it is confirmed that international investment law, as an autonomous legal system, consists of two main parts. The first is the law aimed at regulating relations between states and international organizations, establishing the foundations for concluding and implementing investment agreements. These norms define the competence of international institutions, such as the International Centre for Settlement of Investment Disputes, UNCITRAL, and other arbitration bodies that ensure the resolution of investment disputes. The second component is the law that includes norms regulating the rights and obligations of investors, the conditions for carrying out foreign investments, the mechanisms for protecting investments, as well as the principles of fair and equitable treatment. An important element is the protection of foreign investments from unlawful expropriation, guarantees of legal regime transparency, principles of good faith and non-discrimination. This part of

²⁴ Bogatyrev A.G. Investment Law. M., 1992. P. 52-56.

the law also defines the conditions for investors' interaction with states and their responsibilities towards the host country.

The second paragraph of this chapter, entitled “Development of the Institute of International Legal Personality in International Investment Relations”, states that the legal personality of states plays an important role in international investment relations, as it determines their ability to conclude investment agreements, establish legal frameworks for foreign investors, and bear responsibility for compliance with international obligations.

According to the statement made in the dissertation, legal personality can be general (characteristic of all sovereign states), sectoral (in specific spheres of international law), and special (related to individual aspects of international interaction). In international law, the legal capacity and capacity to act of subjects are closely interconnected and considered as a single concept.

The legal capacity of states in international investment relations consists in their ability to acquire rights and bear obligations, conclude treaties, regulate and protect foreign investments. States possess legal capacity ipso facto, that is, by virtue of their very existence. However, full international legal personality requires not only legal capacity but also capacity to act - the ability to exercise one's rights and fulfill obligations. This necessitates international recognition and active participation in international agreements. In the investment sphere, states conclude bilateral investment treaties, develop national legislation to protect investors, participate in international arbitrations, and influence the formation of international investment standards. A significant aspect of international legal personality is delictual capacity, that is, the state's responsibility for violating investment obligations, such as illegal expropriation or discriminatory measures.

The second chapter of the dissertation, entitled “**Current Issues in Ensuring the Rights and Obligations of Investors in International Law**”, examines the general legal mechanism for regulating investment relations at the international level, taking into account the sovereign rights of states. It highlights the main problems of respecting investors' rights and fulfilling their obligations, as well as analyzes mechanisms for their protection and implementation within the framework of international law.

State sovereignty is a fundamental principle of international law that ensures a state's independence and ability to independently regulate internal and external processes. In classical legal theory, it was considered absolute and unlimited; however, under current conditions of globalization and international economic cooperation, state sovereignty is increasingly subject to certain limitations.

Thus, the American scholar Stephen D. Krasner identifies four aspects of sovereignty:

1. internal sovereignty, related to the control of political and economic power within the country;
2. interdependence sovereignty, reflecting the state's ability to control cross-border flows (for example, investments);
3. international legal sovereignty, ensuring the recognition of states as equal subjects of international law;

4. “Westphalian” sovereignty, prohibiting the interference of external actors in the internal affairs of the state²⁵.

The relationship between state sovereignty and international obligations is a subject of scholarly debate. There are two opposing viewpoints in the doctrine. According to the first position, international treaties restrict state sovereignty by imposing legal obligations and limiting freedom of action. A similar opinion is expressed in the analytical report “Improving the System for Resolving Investment Disputes in Uzbekistan”, which emphasizes that countries attracting investments consciously accept limitations on their sovereignty by waiving judicial immunity and the right to unilateral economic measures. These concepts demonstrate that in modern conditions, states must consider not only internal independence but also international norms, which is especially relevant in the investment sphere.

The second point of view asserts that international treaties do not restrict, but rather implement state sovereignty. Specifically, I. I. Lukashuk argues that concluding a treaty does not diminish sovereignty, but only provides the state with additional opportunities for its realization²⁶. N. N. Palienko takes a similar position, noting that an international agreement does not diminish sovereignty, but only imposes a legal obligation on the state to comply with its assumed commitments.

According to the author, state sovereignty should be considered as a qualitative category that is not subject to quantitative measurement. In this context, it is important to distinguish between the concepts of sovereignty and the sovereign rights of a state. Joining international agreements in the field of investment protection and promotion does not signify a reduction in sovereignty, but rather its realization. A state, by independently assuming international obligations, thereby exercises its sovereign rights, including granting foreign investors the opportunity to appeal to international arbitration.

The second paragraph, entitled “Problems of Ensuring the Interests of Subjects of International Investment Relations in International Judicial Bodies and Arbitrations”, examines the key obstacles investors face when resolving disputes. International investment disputes are governed by both the host state's domestic legislation and international mechanisms, including arbitration procedures and diplomatic protection. The issue of effective protection of investors' rights is particularly relevant in cases of expropriation or other violations of their rights by the state. The primary methods for resolving such disputes are binding procedures (judicial and arbitration) and non-binding mechanisms (negotiations, mediation, conciliation). In the absence of a specialized international agreement, diplomatic protection may be employed; however, international law requires the exhaustion of domestic legal remedies beforehand.

Practice shows that investors often distrust the national courts of the host state due to potential political influence. In this regard, bilateral investment agreements are of key importance, providing investors with the opportunity to appeal to international arbitration bodies. The Washington Convention of 1965 plays a crucial role in regulating investment disputes, establishing the International Centre for

²⁵ Правовые проблемы определения и реализации государственного суверенитета на современном этапе: монография / под ред. А. К. Сквикова, И. В. Яковюка. — М., 2010. С.107.

²⁶ Ушаков Н. А., Международное право: Учебник. — М.: Юристъ, 2003. — С. 55.

Settlement of Investment Disputes, which ensures the protection of investors from political risks and violations of their rights. However, its jurisdiction is limited: the parties to the dispute must be signatories to the Convention, and the dispute itself must meet the criteria of *ratione personae* and *ratione materiae*. In cases where a state is not a party to the Convention, alternative dispute resolution methods are available, including arbitration procedures provided for in the New York Convention and other international treaties. Thus, the international practice of resolving investment disputes demonstrates a comprehensive approach, incorporating a combination of national, international, and contractual mechanisms for protecting investors' rights.

Furthermore, according to the Seoul Convention, disputes between the Multilateral Investment Guarantee Agency and the host state must go through a negotiation stage, and in the absence of an agreement, they must be submitted to arbitration, which emphasizes the importance of international arbitration in the investment sphere. However, the recognition and enforcement of decisions by such bodies depend on the alignment of national legislation with international treaties, which sometimes creates difficulties in law enforcement practice. The international investment protection system faces criticism due to the legal ambiguity of investment agreements, which creates broad opportunities for interpretation and limits the regulatory powers of states. Moreover, there is an increase in the number of conflicting arbitration decisions, leading to the fragmentation of investment law and reducing its predictability. Concerns are often raised that arbitration mechanisms are excessively focused on protecting investors' interests, infringing on state interests and the rights of third parties, and do not ensure sufficient transparency in proceedings. An important issue remains the independence of arbitrators, given the potential influence of states and large corporations on case outcomes. Political factors also play a role, as instability in host countries can affect the effectiveness of arbitration decision enforcement. Under these conditions, states strive to strengthen international arbitration institutions and unify legal regulations, which should increase confidence in the investment protection system and ensure a balance of interests between the parties.

The key multilateral documents are the 1965 Washington Convention, the 1985 Seoul Convention, and the 1994 Energy Charter Treaty. GATT/WTO agreements, including TRIMS, GATS, and TRIPS, also play a significant role. However, the absence of a single international act in the field of foreign investment creates legal uncertainty and hinders the effective protection of investors. The development of the Multilateral Agreement on Investment (MAI) under the auspices of the OECD aims to address legal gaps and harmonize international and national regulatory norms.

The third chapter of the dissertation is entitled **“Prospects for the development of ensuring investors' rights and obligations in international law.”** Its first section examines the development of bilateral and multilateral investment agreements.

The development of bilateral and multilateral investment agreements plays a key role in international law, providing a legal framework for the protection and regulation of foreign investments. Bilateral investment agreements have become a common instrument that offers investors safeguards against political risks, including

protection from expropriation and the ability to resort to international arbitration. Their emergence is linked to the growth of international capital flows and countries' efforts to create a favorable investment climate. The first such agreements were concluded in the mid-20th century, and their number increased significantly as developing countries gained independence. Subsequently, a multilateral system for investment protection emerged, including specialized conventions. Modern investment agreements strike a balance between the interests of states and investors, enshrining key principles such as fair and equitable treatment, most-favored-nation status, and guarantees for the free transfer of capital.

As noted by I. Z. Farkhutdinov, bilateral investment agreements represent a crucial instrument of legal regulation aimed at creating a predictable legal climate for investors. Their main goal is to ensure the stability of the investment process and the free movement of capital, especially during economic crises. Special emphasis is placed on protecting investments from political risks, which is particularly important for developing countries. Bilateral investment agreements allow states to adapt general principles to their national conditions, creating unique mechanisms for cooperation.

The Republic of Uzbekistan, for example, has concluded about 52 such agreements with various countries, including Russia, Kazakhstan, Belarus, Austria, Bulgaria, and South Korea. Double taxation avoidance agreements, which eliminate tax barriers and contribute to effective business operations, also play an important role in investment regulation. Bilateral investment agreements include provisions on resolving disputes arising both between the investor and the host state (for example, on issues of expropriation and compensation) and between states regarding the interpretation of agreements. According to international law, states possess the sovereign right to establish conditions for foreign investments, but bilateral investment agreements formalize and consolidate mechanisms for protecting investors' rights, including international arbitration.

As noted by Evteeva S. M., despite their formal symmetry, Bilateral Investment Agreements are primarily oriented towards protecting investors' interests without imposing specific obligations on them. The main guarantees in such agreements include establishing a regime for investors, rules on expropriation, compensation guarantees, and dispute resolution mechanisms.

Currently, there are over 2,500 bilateral investment agreements in force worldwide. In addition to bilateral investment agreements, there are multilateral investment agreements, which differ in that they are concluded between three or more countries. These aim to harmonize investment rules at the international level. Organizations established under the Bretton Woods agreements, such as the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (IBRD), have made significant contributions to the multilateral regulation of investments. Subsequently, the regulation of transnational capital flows developed within the framework of the European Economic Community (EEC) and the Organisation for Economic Co-operation and Development (OECD), which contributed to the improvement of international investment norms.

The dissertation concludes that in international law, the protection of investors' rights and the regulation of their obligations are primarily ensured through bilateral

and multilateral investment agreements concluded between states. These agreements establish a stable legal framework for foreign investments by providing guarantees against expropriation, dispute resolution mechanisms, and principles of non-discriminatory treatment. In this context, host states commit to ensuring favorable conditions for investors, while capital-exporting countries seek to safeguard their investors abroad. Consequently, the legal mechanisms that maintain a balance between state and investor interests must be dynamic and adaptable, allowing states to protect public interests while providing investors with sufficient guarantees for the security of their investments.

CONCLUSION

In the context of current international realities, the issues of protecting investors' rights and obligations are becoming increasingly acute. In light of all the aforementioned, the relevance of specialized scientific research is growing.

During the research on the topic “Ensuring Investors' Rights and Obligations in International Law: Current Problems and Development Prospects”, a number of scientific and theoretical conclusions were formulated, and practical proposals and recommendations were developed:

I. Scientific and theoretical proposals and conclusions:

1. International investment law represents an independent branch regulating international investment relations. This is confirmed by its specific subject matter of regulation, which covers the rights and obligations of states to protect foreign investors, as well as specific principles and norms that establish the legal foundation for investments. It combines the norms of national legal systems and international law, highlighting its comprehensive nature aimed at dispute resolution and protection of the rights of investment activity participants.

2. Unlike other branches, international investment law is characterized by decentralization, as there is no single multilateral treaty or central international organization. It is based on various sources, including bilateral and regional agreements, national legislation, international customs, arbitration decisions, and investment contracts.

3. Attempts were made to distinguish between such concepts as legal personality, legal capacity, and capacity to act. It is shown that the legal personality of a state means its recognition as a participant in international legal relations, which allows it to enter into investment agreements and participate in disputes. This is the foundation for international activity. The legal capacity of a state in international investment relations means its ability to have rights and obligations, such as participation in investment agreements and protection of foreign investors. This ability depends on the recognition of the state as a subject of international law and is regulated by domestic laws and international agreements. Capacity to act, however, characterizes the active use of these rights and fulfillment of obligations, including signing and executing agreements and participating in dispute resolution. Thus, legal capacity determines the possibilities, while capacity to act determines the practical realization of these possibilities.

4. When resolving international investment disputes, it is crucial to strictly

observe the sovereignty of the state participating in the dispute, as well as the principle of good faith fulfillment of international obligations. Thus, the parties must respect the legal status of the state providing investments and demonstrate honesty and transparency in the process of fulfilling their international obligations, which ensures the fair and lawful resolution of conflicts.

5. International investment law regulates relations not only at the universal, regional, and bilateral levels but also between various entities: states, international organizations, individuals and legal entities, including transnational companies. This demonstrates the multi-layered nature of international investment relations, where both private and public interests interact.

6. Disputes between states in the field of international investment can arise due to discrepancies in the interpretation and application of international treaties and agreements, which can violate the rights and interests of the parties and create legal uncertainties. These disputes require effective resolution to ensure fairness and stability in international investment relations.

7. Clarity has been provided on issues related to state sovereignty in ensuring the rights and obligations of investors, contributing to a better understanding of the balance between national jurisdiction and international obligations. This improves law enforcement and reduces the risks of conflicts between state interests and investment rights.

8. States act as the primary subjects of international investment law, which is connected to their unique rights and obligations arising from international treaties and principles. Their role in shaping the regulatory framework for international investments is undisputed.

9. Sovereignty is a key attribute of a state, defining its independence and supremacy both within the country and on the international stage. It serves as the foundation for the equality of states in international relations, as well as for their ability to independently make decisions and enter into treaty relations with other subjects of international law. Modern conditions of globalization require states to find a balance between attracting foreign investments and protecting their sovereignty. By signing investment agreements, states partially limit their sovereign rights in favor of providing guarantees to investors, which contributes to economic development but may also pose threats to sovereign rights, especially in strategic sectors.

10. International investment agreements play a key role in ensuring legal protection for foreign investors. They create the legal framework for investment protection and establish standards for the treatment of foreign capital. It is important that such agreements include provisions allowing states to maintain control over strategically important sectors of the economy, as well as provide for the possibility of regulation in the interests of public good. Transparency and fairness of the terms in these agreements will help prevent potential conflicts and disputes.

11. Given the unique legal position of states in international investment relations, it is extremely important and necessary to develop a universally recognized list of rights and obligations for states as participants in these relations.

12. In the current context, the legal regulation of international investment disputes is carried out through the interaction of international law and national

legislation, with international law playing a predominant role. This is due to the fact that international law norms encompass foreign investment issues, for which bilateral investment agreements are actively used to attract such investments. Violation of these agreements entails international responsibility of states. The effectiveness of the interaction between international norms and national legislation directly impacts both the international legal responsibility of states and the overall investment climate.

13. The unification of norms regulating investment activity currently faces objective difficulties. Although new norms for resolving disputes strive for unification, the number of bodies with competence in such cases and the diversity of procedural features are increasing. As a result, the problem of lacking a unified and comprehensive international legal mechanism for resolving investment disputes arises. This lack is explained by the diversity of legal systems, each with its own unique norms and approaches. The conflicting interests of states and investors make it difficult to reach a common agreement on unified rules. Furthermore, the increase in the number of arbitration bodies with different procedures and rules leads to fragmentation of approaches and complicates the creation of a holistic mechanism.

II. Proposals for improving the current legislation:

14. It is proposed to introduce the following amendments and additions to the Law of the Republic of Uzbekistan “On Investments and Investment Activities”:

1) In Chapter 1, Article 10, replace the first part “An investor has the right” with “Investors have equal rights.”

Add a new paragraph to Article 10 of Chapter 2 with the following content:

2) “to have access to information necessary for assessing investment risks and making informed decisions, including information on regulatory legal acts relating to investment activities, as well as information on the financial and economic condition of investment objects.”

Add a paragraph to the second part of Chapter 3, Article 19 with the following content:

3) “If subsequent legislation of the Republic of Uzbekistan worsens investment conditions, then the legislation in force on the date of investment shall apply to investors for ten years from the date of investment. The investor has the right, at their discretion, to apply those provisions of the new legislation that improve their investment conditions.”

4) In part two of Article 57 of the Law of the Republic of Uzbekistan “On Investments and Investment Activities” №-598 dated December 25, 2019: “the regulation of investments in the territory of foreign states is carried out in accordance with this Law, the legislation of the state in whose territory the investment activity is carried out, as well as international treaties of the Republic of Uzbekistan”

5) Reword Chapter 9, Article 50.1 as follows:

“Article 50.1. Transfer of investor's rights to another person

If a foreign state or a state body authorized by it makes payments to the investor under a guarantee (insurance contract) provided for investments made in the territory of the Republic of Uzbekistan, and the investor's rights (claims) to these investments are transferred to this foreign state or its authorized body, then in the Republic of

Uzbekistan, such transfer of rights (assignment of claims) is recognized as lawful only if the investor has previously made investments in the territory of the Republic of Uzbekistan and/or fulfilled all obligations stipulated by the contract.”

6) Add the following to the first part of Article 63 of Chapter 12:

“A dispute related to foreign investments and arising during the investment activities of a foreign investor (investment dispute) in the territory of the Republic of Uzbekistan shall be resolved through negotiations, including with the involvement of experts, or by appealing to the Commissioner under the President of the Republic of Uzbekistan for the Protection of the Rights and Legitimate Interests of Business Entities (hereinafter referred to as the Commissioner for the Protection of Entrepreneurs' Rights) in the field of investment activities.”

III. Practical proposals and conclusions:

15. The author developed relevant proposals during the preparation of suggestions for the draft resolution of the UN General Assembly of September 20, 2024, “Pact for the Future”, aimed at:

1) “compliance with social responsibility and sustainable development standards”, which is reflected in paragraph 58.

2) “providing support to developing countries in stimulating increased investments in sustainable development, including through the creation of a more favorable regulatory and investment environment”, reflected in Action 4, point (k).

3) “attracting and maintaining investments in science, technology, and innovation, and deepening partnerships by creating favorable conditions in developing countries that foster both investment and entrepreneurship, as well as the development of local innovation ecosystems”, which is reflected in Action 29, paragraph (f).

16. Over the years of using arbitration to resolve disputes between investors and states, serious shortcomings of this approach have been revealed. Currently, the need to reform international investment arbitration is being actively discussed at many international forums. In the context of these discussions, the idea of transitioning from arbitration to a dispute resolution system through a permanent international court is being put forward. In March 2018, the EU Council approved the start of negotiations on the establishment of a Multilateral Investment Court. This concept has also received support in the development of EU agreements with Vietnam and Canada.

A multilateral investment court offers several key advantages over existing investment dispute resolution systems. Firstly, it provides greater stability and predictability in dispute resolution, allowing parties to rely on unified standards and practices rather than disparate arbitration rulings. Secondly, it promotes increased transparency and accountability, as its activities and decisions will be open to public scrutiny and subject to stricter regulations. Thirdly, establishing a permanent judicial body helps avoid the issue of “arbitrator bias”, where arbitrators' independence and objectivity may be questioned due to their pursuit of new cases and maintenance of relationships with certain parties. Finally, the MIC contributes to fairer dispute resolution by minimizing bias and political pressure, as judges will be appointed for long terms and selected based on their qualifications, rather than through private

arbitration agreements. Consequently, establishing a Multilateral Investment Court is necessary to ensure a fairer, more transparent, and more effective system for resolving investment disputes, which is crucial for a sustainable international investment climate.

17. Establishment of a special organisation under the Ministry of Investments, Industry and Trade of the Republic of Uzbekistan, similar to the American Committee on Foreign Investment in the United States (CFIUS), which represents an important initiative in the context of ensuring state sovereignty when concluding international investment agreements. Such a body performs the function of preliminary analysis and legal examination of investment contracts and agreements with foreign investors in order to identify potential threats to national security, economic sovereignty, and the strategic interests of the state. Unlike traditional interdepartmental approvals, this body possesses specialized expertise in the field of international investment law, foreign economic policy, and national security.

18. Currently, international investments are regulated by numerous bilateral and regional agreements, which often contain contradictory norms, creating legal uncertainty for states and investors. A universal agreement could eliminate these problems by establishing unified regulatory standards that would ensure the protection of investors' rights and respect for the sovereign interests of states. Such a treaty should include provisions on the inadmissibility of discrimination and nationalization without compensation, as well as transparent conditions for conducting business. At the same time, investors should be obliged to comply with environmental, social, and anti-corruption norms, which will help balance the interests of the parties and create a stable legal foundation for international investments.

The establishment of a Universal International Agreement on the Regulation of Investment Relations under the Multilateral Investment Guarantee Agency (MIGA) is justified by the fact that MIGA is a specialized institution of the World Bank Group with extensive experience in managing investment risks and promoting sustainable development. Considering the close relationship between investment activity and issues of economic growth and development, the creation of a universal agreement within the MIGA framework will allow for the elimination of legal gaps and contradictions between existing investment agreements, ensuring their harmonization. MIGA is already actively involved in protecting investors from political risks and has the necessary competencies and resources to develop comprehensive and effective international standards.

The universal agreement under the auspices of MIGA will be able to establish unified rules for protecting investors' rights, preventing unjustified discrimination, and ensuring transparency in the investment climate. In addition, it will ensure the compliance of investment activities with the principles of sustainable development and adherence to international obligations of states in the field of environmental protection and social standards. This will strengthen investor confidence, as well as create the necessary balance between the interests of states and businesses, contributing to the sustainable and equitable development of the global economy.

**НАУЧНЫЙ СОВЕТ DSc.07/03.06.2023.Yu.22.04 ПО
ПРИСУЖДЕНИЮ УЧЁНЫХ СТЕПЕНЕЙ ПРИ ТАШКЕНТСКОМ
ГОСУДАРСТВЕННОМ ЮРИДИЧЕСКОМ УНИВЕРСИТЕТЕ**

**ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ ЮРИДИЧЕСКИЙ
УНИВЕРСИТЕТ**

РАХМОНОВ ЖАЛОЛИДДИН АКМАЛОВИЧ

**ОБЕСПЕЧЕНИЕ ПРАВ И ОБЯЗАННОСТЕЙ ИНВЕСТИТОРОВ В
МЕЖДУНАРОДНОМ ПРАВЕ: АКТУАЛЬНЫЕ ПРОБЛЕМЫ И
ПЕРСПЕКТИВЫ РАЗВИТИЯ**

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АВТОРЕФЕРАТ
диссертации доктора философии по юридическим наукам (PhD)

Ташкент – 2025

Тема диссертации доктора философии (PhD) зарегистрирована Высшей аттестационной комиссией при Министерстве высшего образования, науки и инноваций Республики Узбекистан за № В2023.3.PhD/Yu1201

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Научный руководитель:	Исмаилова Гулноза Сайдиганиходжаевна доктор юридических наук, профессор
Официальные оппоненты:	Умарханова Дилдора Шарипхановна доктор юридических наук, профессор Якубходжаев Умид Анварходжаевич доктор юридических наук
Ведущая организация:	Правоохранительная академия Республики Узбекистан


Защита диссертации состоится «19» июня 2025 года в 12:00 на заседании Научного совета DSc.07/03.06.2023.Yu.22.04 при Ташкентском государственном юридическом университете. (Адрес: 100047, г. Ташкент, ул. Сайилгох, 35. Тел.: (99871) 233-66-36; факс: (998971) 233-37-48; e-mail: info@tsul.uz).


С диссертацией (PhD) можно ознакомиться в Информационно-ресурсном центре Ташкентского государственного юридического университета (зарегистрировано за № 1399). (Адрес: 100047, г. Ташкент, ул. А. Темура, 13. Тел.: (99871) 233-66-36).


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С.С. Гулямов
Председатель Научного совета по
присуждению ученых степеней, доктор
юридических наук, профессор


Ш.Н. Рахманов
Ученый секретарь Научного совета по
присуждению ученых степеней, кандидат
юридических наук, доцент


Д.Н. Махкамов
Председатель Научного семинара при
Научном совете по присуждению ученых
степеней, доктор юридических наук,
профессор

ВВЕДЕНИЕ (аннотация диссертации доктора философии (PhD))

Целью исследования является выявление существующих проблем и перспективных направлений развития правовых механизмов защиты интересов инвесторов в глобальном масштабе, а также выработка предложений и рекомендаций по повышению эффективности законодательства и правоприменительной практики в данной сфере.

Объектом исследования являются совокупность международных правовых отношений, связанных с защитой прав и обязанностей инвесторов.

Научная новизна исследования заключается в следующем:

обоснована необходимость соблюдения принципов социальной ответственности и устойчивого развития в инвестиционных проектах, что способствует снижению их негативного воздействия на окружающую среду и общество;

обоснована необходимость поддержки устойчивого развития развивающихся стран путём создания более благоприятной законодательной базы и инвестиционного климата для увеличения объёма целевых инвестиций;

обоснована необходимость создания благоприятных условий для привлечения и поддержки инвестиций в науку, технику и инновации в развивающихся странах, углубления сотрудничества, стимулирования инвестиций и предпринимательства, а также развития местных инновационных экосистем;

обоснована необходимость закрепления в законодательстве Республики Узбекистан комплексного правового подхода к регулированию внешней инвестиционной деятельности, обеспечивающего баланс между национальным законодательством и международным правом, соблюдение норм национального законодательства, согласование с международными обязательствами и создание правовой основы для минимизации правовых проблем участников инвестиционной деятельности.

Внедрение результатов исследования

Результаты исследования нашли применение в следующих направлениях:

предложение о необходимости соблюдения стандартов социальной ответственности и устойчивого развития было отражено в пункте 58 документа «Пакт во имя будущего», принятого Генеральной Ассамблеей ООН 22 сентября 2024 года (акт Постоянного представительства Республики Узбекистан при Организации Объединённых Наций от 7 ноября 2024 года). Внедрение принципов социальной ответственности и устойчивого развития способствовало снижению негативного воздействия инвестиционных проектов на окружающую среду и общество, заложив основу долгосрочных выгод как для инвесторов, так и для принимающих государств;

предложение о поддержке развивающихся стран путём создания более благоприятной нормативно-правовой и инвестиционной среды для стимулирования роста инвестиций в устойчивое развитие было отражено в подпункте (к) пункта 4 Плана действий документа «Пакт во имя будущего», принятого Генеральной Ассамблеей ООН 22 сентября 2024 года (акт

Постоянного представительства Республики Узбекистан при ООН от 7 ноября 2024 года). Это послужило стимулом для укрепления сотрудничества между развивающимися государствами, международными организациями, финансовыми институтами и развитыми странами, а также облегчило обмен опытом, предоставление финансовой помощи и технической поддержки;

предложение о создании благоприятных условий для привлечения и поддержки инвестиций в науку, технику и инновации в развивающихся странах, а также для стимулирования предпринимательства и развития местных инновационных экосистем было отражено в подпункте (f) пункта 29 Плана действий документа «Пакт во имя будущего», принятого Генеральной Ассамблеей ООН 22 сентября 2024 года (акт Постоянного представительства Республики Узбекистан при ООН от 7 ноября 2024 года). Это способствовало разработке специальных соглашений, направленных на защиту иностранных инвестиций, укрепление многостороннего и двустороннего сотрудничества, а также включение обязательств по стимулированию инноваций и упрощению инвестиционной деятельности;

предложение о необходимости осуществления регулирования инвестиций на территории иностранных государств в соответствии с законодательством государства, в котором осуществляется инвестиционная деятельность, и международными договорами Республики Узбекистан было отражено во второй части статьи 57 Закона Республики Узбекистан «Об инвестициях и инвестиционной деятельности» от 25 декабря 2019 года № ЗРУ-598 (акт Законодательной палаты Республики Узбекистан от 15 октября 2024 года). Внедрение данного предложения способствовало обеспечению баланса между национальным законодательством и международным правом, требуя соблюдения норм узбекского законодательства при осуществлении инвестиционной деятельности за рубежом в сочетании с нормами международного права и международных договоров.

Указанные меры подтвердили приверженность международного сообщества принципам социальной ответственности и устойчивого развития, укрепили доверие инвесторов, способствовали созданию стабильных условий для инвестиций и расширению возможностей международного сотрудничества.

Структура и объём диссертации. Диссертация состоит из введения, трёх глав, состоящих из 8 параграфов, заключения, списка использованной литературы. Объём диссертации составляет 150 страниц.

E'LON QILINGAN ISHLAR RO'YXATI
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100060, Тошкент, Я. Ғуломов кўчаси, 74.
Тел.: +998 90 9722279, www.tiraj.uz

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