

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

TOSHKENT DAVLAT YURIDIK UNIVERSITETI

XALIQULOV KOMOLIDDIN NOSIROVICH

**XORIJIY DAVLATLAR SUD QARORLARINI TAN OLIH VA IJRO
ETISH BO‘YICHA XALQARO-HUQUQIY HAMKORLIK**

12.00.10 – Xalqaro huquq

**Yuridik fanlar bo‘yicha falsafa doktori (Doctor of Philosophy) dissertatsiyasi
AVTOREFERATI**

Toshkent – 2025

Falsafa doktori (PhD) dissertatsiyasi avtoreferati mundarijasi

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Оглавление автореферата диссертации доктора философии (PhD)

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KIRISH (falsafa doktori (PhD) dissertatsiyasi annotatsiyasi)

Dissertatsiya mavzusining dolzarbligi va zarurati. Dunyoda, globallashtirish jarayonlarining chuqurlashuvi natijasida xorijiy davlatlar sud qarorlarini tan olish va ijro etish bilan bogʻliq davlatlararo munosabatlar yildan yilga dolzarb ahamiyat kasb etib bormoqda. Xususan, 2024-yil 24-sentabrda BMT Bosh Assambleyasining Rezolyutsiyasi bilan qabul qilingan “Kelajak uchun pakt”ning 7-harakatida “Barqaror taraqqiyot yoʻlida tinchliksevar, adolatli va ochiq jamiyatlarni barpo etish, barcha uchun odil sudlovdan foydalanish imkoniyatini taʼminlash, barcha darajalarda samarali, hisobdor va keng ishtirok etishga asoslangan muassasalarni yaratish, shuningdek, inson huquqlari va asosiy erkinliklarini himoya qilish borasidagi saʼy-harakatlarimizni kuchaytiramiz”¹ deb qayd etilgan. Bunga, turli davlatlarning jinoyat, fuqarolik va iqtisodiy ishlar boʻyicha sudlari tomonidan chiqarilgan qarorlarini tan olish va ijro etishda huquqiy mexanizmlarning zaifligi va davlatlarning milliy huquqiy tizimlarining xilma-xilligi kabi qator muammolar ham sabab boʻlmoqda. Bu esa, xorijiy davlatlar sud qarorlarini tan olish va ijro etish borasida xalqaro shartnomalarni takomillashtirish va ularni davlatlarning milliy qonunchiligiga implementatsiya qilish jarayonlarini jadallashtirish hamda bu boradagi xalqaro-huquqiy hamkorlikni kuchaytirishni taqozo qiladi.

Jahonda xorijiy davlatlar sud qarorlarini tan olish va ijro etish boʻyicha xalqaro-huquqiy shartnomalarni takomillashtirish, turli davlatlarning milliy huquqiy tizimlaridagi tafovutlar bilan bogʻliq muammolarni keltirib chiqaruvchi sabablarni oʻrganish hamda mazkur sohani tartibga soluvchi mexanizmlarning samaradorligini oshirishga qaratilgan ilmiy tadqiqotlarga alohida eʼtibor berilmoqda. Jumladan, xorijiy davlatlar sud qarorlarini tan olish va ijro etishda davlatlar oʻrtasidagi muammolarga sabab boʻluvchi omillarni qayta koʻrib chiqish, ilgʻor xorijiy davlatlar tajribasi asosida xalqaro-huquqiy mexanizmlarni yanada takomillashtirish yuzasidan muayyan natijalarga erishilgan. Shunga qaramasdan, xorijiy davlatlar sud qarorlarini tan olish va ijro etish boʻyicha xalqaro shartnomalarda qayd etilgan normalarning bugungi kun talablariga javob bermasligi, davlatlar oʻrtasidagi munosabatlarda oʻzaro ishonchning yetarli emasligi, shuningdek, davlatlarning milliy qonunchiligidagi farqlar kabi qator muammolar nazariy, amaliy, huquqiy masalalarni kompleks tarzda oʻrganish, tizimdagi mavjud muammolarni aniqlash va ularga yechim berish masalasini taqozo etmoqda.

Mamlakatimizda xorijiy davlatlar sud qarorlarini tan olish va ijro etish sohasidagi munosabatlarni samarali amalga oshirish maqsadida, Oʻzbekiston Respublikasi tomonidan bir qator xalqaro hujjatlarning ratifikatsiya qilindi, bu esa xorijiy davlatlarning jinoyat, fuqarolik va iqtisodiy sudlari tomonidan chiqarilgan qarorlarni tan olish va ijro etish boʻyicha xalqaro huquqiy-hamkorlikni amalga oshirishda, xalqaro shartnomalarda belgilangan normalarni bir xilda qoʻllash hamda sud qarorlarining huquqiy himoya mexanizmini mustahkamlashga xizmat qilgan. Oʻzbekiston Respublikasi Prezidenti Sh.M.Mirziyoyev taʼbiri bilan aytganda: “Sudlarning asosiy vazifasi adolatni qaror toptirishdan iborat. Buning uchun sud har

¹ Resolution A/RES/79/1 adopted by the General Assembly on 22 September 2024 The Pact for the Future // [Elektron resurs]: <https://documents.un.org/doc/undoc/gen/n24/272/22/pdf/n2427222.pdf>

bir ish yuzasidan qonuniy, asosli va adolatli qaror chiqarishi lozim.”¹ Shuningdek, O‘zbekiston Respublikasi Prezidentining 2020-yil 17-noyabrdagi “1993-yil 22-yanvardagi Fuqarolik, oilaviy va jinoyat ishlari bo‘yicha huquqiy yordam hamda huquqiy munosabatlar to‘g‘risidagi Konvensiya va 2002-yil 7-oktabrdagi Fuqarolik, oilaviy va jinoiy ishlar bo‘yicha huquqiy yordam va huquqiy munosabatlar to‘g‘risidagi Konvensiya qoidalarini amalga oshirish chora-tadbirlari to‘g‘risida”gi PQ-4895-son qarorida belgilangan vazifalar ijrosidan kelib chiqib, sud qarorlarini tan olish va ijro etish bo‘yicha davlatlar hamkorligini tartibga soluvchi universal, mintaqaviy va ikki tomonlama xalqaro shartnomalarning tavsifini, davlatlararo hamkorlikni tartibga solish asoslari hamda ularning o‘ziga xos jihatlarini inobatga olgan holda, xorijiy davlat sud qarorlarini tan olish va ijro etish bo‘yicha xalqaro-huquqiy hamkorlikka oid shartnomalardagi normalarni milliy qonunchilikka implementatsiya qilish masalalarini tatbiq etishni taqozo etadi.

Ushbu dissertatsiya tadqiqoti BMTning 1988-yil 20-dekabrdagi “Giyohvandlik vositalari va psixotrop moddalarni g‘ayriqonuniy ravishda muomalaga kiritishga qarshi kurash to‘g‘risida”gi konvensiyasi, 2000-yil 15-noyabrdagi “Transmilliy uyushgan jinoyatchilikka qarshi” konvensiyasi hamda O‘zbekiston Respublikasi Jinoyat-protsessual kodeksi, Fuqarolik protsessual kodeksi, Iqtisodiy protsessual kodeksi, shuningdek, O‘zbekiston Respublikasi Prezidentining 2022-yil 28-yanvardagi PF-60-son “2022-2026-yillarga mo‘ljallangan Yangi O‘zbekistonning taraqqiyot strategiyasi to‘g‘risida” Farmoni, 2020-yil 17-noyabrdagi PQ-4895-son “1993-yil 22-yanvardagi Fuqarolik, oilaviy va jinoyat ishlari bo‘yicha huquqiy yordam hamda huquqiy munosabatlar to‘g‘risidagi Konvensiya va 2002-yil 7-oktabrdagi Fuqarolik, oilaviy va jinoiy ishlar bo‘yicha huquqiy yordam va huquqiy munosabatlar to‘g‘risidagi konvensiya qoidalarini amalga oshirish chora-tadbirlari to‘g‘risida”gi qarori hamda sohaga oid boshqa normativ-huquqiy hujjatlarda belgilangan vazifalarni amalga oshirishga xizmat qiladi.

Tadqiqotning respublika fan va texnologiyalari rivojlanishining ustuvor yo‘nalishlariga mosligi. Dissertatsiya tadqiqoti respublika fan va texnologiyalar rivojlanishining I. “Axborotlashgan jamiyat va demokratik davlatni ijtimoiy, huquqiy, iqtisodiy, madaniy, ma‘naviy-ma‘rifiy rivojlantirishda innovatsion g‘oyalar tizimini shakllantirish va ularni amalga oshirish yo‘llari” ustuvor yo‘nalishi bo‘yicha bajarilgan.

Muammoning o‘rganilganlik darajasi. Xorijiy davlatlar sud qarorlarini tan olish va ijro etish bo‘yicha xalqaro-huquqiy hamkorlik masalalari, shuningdek xalqaro huquq normalarining sudlar tomonidan qo‘llanilishi, ularni milliy qonunchilikka tatbiq etilishi va tartibga solinishi hamda odil sudlovni amalga oshirish bo‘yicha xalqaro-huquqiy hamkorlikning ayrim jihatlarini mamlakatimiz huquqshunos olimlari – A.Saidov, I.Rustambekov, G.Yuldasheva, X.Tursunov, O.Sulaymanov, D.Umarxanova, D.Egamberdiyev, O.Saidov, F.Fayziyev, A.Mansurov, J.Allayorov, A.Suleymanova, Sh.Jo‘ldasova va boshqalar tomonidan o‘rganilgan.

Shu bilan birga, mavzuga oid masalalar bo‘yicha ilmiy tadqiqotlar doirasida, xususan, X.Tursunovning nomzodlik dissertatsiyasida O‘zbekiston Respublikasi

¹ O‘zbekiston Respublikasi Prezidenti Shavkat Mirziyoyevning Oliy Majlisga Murojaatnomasi 22.12.2017 y. // [Elektron resurs]: <https://president.uz/oz/lists/view/1371>

sudlarida xalqaro huquq normalarini qo'llashning amaliy jihatlari o'rganilgan.

D.Umarxonova o'zining doktorlik dissertatsiyasida jinoyat ishlari bo'yicha xalqaro hamkorlik masalalarining bir yo'nalishi sifatida ozodlikdan mahrum etishga hukm qilingan shaxslarning jazo o'tash jarayonini davom ettirishda xorijiy davlat sud qarorlarini tan olish bilan bog'liq bo'lgan xalqaro huquq normalarining milliy-huquqiy tizimga implementatsiya qilish masalalariga to'xtalib o'tgan.

O.Saidov esa, tadqiqot ishida, mahkumni topshirish institutini takomillashtirishning tashkiliy-huquqiy masalalari doirasida xorijiy davlat sud hukmini tan olishga to'xtalib o'tgan.

MDH davlatlari doirasida T.Xabriyeva, L.Lunts, I.Engelman, N.Marisheva, P.Yevseyev, D.Averin, M.Boguslavskiy, V.Trexov, M.Aminov, S.Sorokina, A.Urusov, O.Panyushkina, M.Pelenitsina, A.Novoselsev, D.Kulikova, A.Shukin, A.Muranov, T.Yablochkov, L.Anufrieva va boshqa olimlar tomonidan xorijiy davlat sud qarorlarini tan olish va ijro etish tushunchalari hamda ularning xalqaro-huquqiy hamkorlik bilan bog'liqligi masalalari o'rganilgan.

Xorijiy olimlardan P.Barnett, J.Hill, R.Brand, G.Born, P.Herzog, H.Batiffol, I.Blunchli, K.Lenarts, Albert Yan van den Berg, S.Tesfay, D.Jitta, K.Kessedjian, X.Shak, M.Volf, Nadia de Araujo, Marcelo De Nardi, E.Lussen-Petraska, P.Mayer va boshqa olimlar¹ o'z tadqiqotlari doirasida xorijiy davlat sud qarorlarini tan olish va ijro etishda davlatlararo munosabatlarni huquqiy tartibga solish zaruratiga e'tibor qaratganlar.

Biroq yuqorida nomlari keltirilgan olimlarning ishlari faqat davlatlar o'rtasida jinoyat ishlari bo'yicha huquqiy yordamni amalga oshirishda xalqaro huquqiy-hamkorlikning ayrim amaliy va nazariy jihatlariga bag'ishlangan bo'lib, xorijiy davlat sud qarorlarini tan olish va ijro etish bo'yicha xalqaro-huquqiy hamkorlik masalalari yuzasidan keng qamrovli tadqiqot ishlari olib borilmagan. Shunga ko'ra, ushbu masalani kompleks tadqiq etish dolzarb hisoblanadi. Bu esa, xalqaro huquq fani nuqtai nazaridan bu sohadagi xalqaro shartnomalarga rioya qilinishini o'rganish, tahlil qilish va takomillashtirish ehtiyoji mavjudligini belgilaydi.

Dissertatsiya tadqiqotining dissertatsiya bajarilgan oliy ta'lim muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog'liqligi. Dissertatsiya mavzusi Toshkent davlat yuridik universitetining ilmiy-tadqiqot ishlari rejasi doirasida bajarilgan.

Tadqiqotning maqsadi xorijiy davlatlar sud qarorlarini tan olish va ijro etish bo'yicha xalqaro-huquqiy hamkorlik masalalarini tadqiq etish, bu sohadagi mavjud muammo va huquqiy bo'shliqlarni aniqlash, shuningdek xalqaro-huquqiy hamkorlikni takomillashtirishga qaratilgan ilmiy va amaliy taklif, tavsiya va xulosalar ishlab chiqishdan iborat.

Tadqiqotning vazifalari:

xorijiy davlat sud qarorlarini tan olish va ijro etish tushunchasi va uning mazmunini tahlil qilish;

sud qarorlarini tan olish va ijro etish bo'yicha xalqaro munosabatlarning rivojlanish bosqichlarini o'rganish;

davlatlar o'rtasida sud qarorlarini tan olish va ijro etishni tartibga soluvchi prinsiplarning xususiyatlarini tadqiq etish;

sud qarorlarini tan olish va ijro etish bo'yicha universal xalqaro shartnomalarni

¹ Mazkur olimlarning ishlari dissertatsiyaning "Foydalanilgan adabiyotlar ro'yxati" qismida keltirilgan.

tahlil qilish;

mintaqaviy shartnomalar doirasida sud qarorlarini tan olish va ijro etish bo'yicha davlatlararo hamkorlik masalalarini tadqiq qilish;

davlatlar o'rtasida ikki tomonlama shartnomalar doirasida sud qarorlarini tan olish va ijro etish masalalarining huquqiy tartibga solishni o'rganish;

xorijiy davlatlarning jinoiy, fuqarolik va iqtisodiy sudlari tomonidan chiqarilgan qarorlarni tan olish va ijro etish bo'yicha xalqaro hamkorlikka oid normalarni qiyosiy-huquqiy tahlil qilish;

xorijiy davlat sud qarorlarini tan olish va ijro etish bo'yicha xalqaro shartnomalar normalarni milliy qonunchilikka implementatsiya qilish bo'yicha taklif va tavsiyalar tayyorlash;

O'zbekiston Respublikasi qonunchiligi va huquqni qo'llash amaliyotini takomillashtirish bo'yicha amaliy va ilmiy-nazariy taklif hamda tavsiyalar ishlab chiqish.

Tadqiqotning obyekti sifatida xorijiy davlatlar sud qarorlarini tan olish va ijro etish bo'yicha yuzaga keladigan xalqaro-huquqiy munosabatlar tizimi olingan.

Tadqiqotning predmetini xorijiy davlatlar sud qarorlarini tan olish va ijro etish bo'yicha xalqaro-huquqiy hamkorlikni tartibga solishga oid bo'lgan xalqaro-huquqiy hujjatlar, milliy va xorijiy normativ-huquqiy hujjatlar, qonunni qo'llash amaliyoti, ilmiy-nazariy qarashlar va yondashuvlar tashkil qiladi.

Tadqiqotning usullari. Tadqiqotda tarixiy-huquqiy, mantiqiy, sotsiologik (mavzu doirasida so'rovnoma), induksiya, deduksiya, yuridik-texnik, qiyosiy-huquqiy, ilmiy manbalarni kompleks tadqiq etish va statistik ma'lumotlar tahlili kabi usullardan foydalanilgan.

Tadqiqotning ilmiy yangiligi quyidagilardan iborat:

xorijiy davlatlar sud qarorlarini tan olish va ijro etishga oid xalqaro shartnomalarda belgilangan normalarni milliy sudlar tomonidan bir xilda qo'llash bo'yicha huquqiy mexanizmni takomillashtirishni taqozo etayotganligi sababli, xorijiy davlatda ozodlikdan mahrum etish tarzidagi jazoga hukm qilingan va jazoni o'tayotgan O'zbekiston Respublikasi fuqarosi jazoni O'zbekiston Respublikasida o'tashni davom ettirish uchun qabul qilib olinganda, xorijiy davlat sudining qarori O'zbekiston Respublikasida tan olinishi va ijroga qaratilishi mumkinligi asoslantirilgan;

jazoni o'tashni davom ettirish uchun O'zbekiston Respublikasi sudi tomonidan ozodlikdan mahrum etilgan chet el fuqarosi o'zi fuqaroligiga mansub bo'lgan davlatga berilishi yoki xorijiy davlat sudi tomonidan ozodlikdan mahrum etilgan O'zbekiston Respublikasi fuqarosi xorijiy davlatdan qabul qilib olinishi mumkinligi asoslantirilgan;

jazoni o'tash uchun xalqaro shartnomalarga muvofiq xorijiy davlat tomonidan topshirilgan mahkumga nisbatan jazo muddati xorijiy davlat sudining hukmi bilan tayinlangan muddatga mutanosib ravishda hisoblanishi kerakligi asoslantirilgan;

xorijiy davlat sudining qarorini tan olish va ijroga qaratish O'zbekiston Respublikasining manfaatlariga, suverenitetiga yoki xavfsizligiga zarar yetkazishi mumkinligi haqida xulosaga kelsa, xorijiy davlat sudining qarorini tan olishni va ijroga qaratishni rad etish to'g'risida ajrim chiqarishi kerakligi asoslantirilgan.

Tadqiqotning amaliy natijalari quyidagilardan iborat:

xorijiy davlatlar sud qarorlarini ijro etish sohasidagi xalqaro huquqiy-

hamkorlikni yanada takomillashtirish maqsadida BMTning bir qator “Giyohvandlik vositalari va psixotrop moddalarining noqonuniy aylanishiga qarshi kurash to‘g‘risida”gi, “Transmilliy uyushgan jinoyatchilikka qarshi”, “Korrupsiyaga qarshi kurash to‘g‘risida”gi konvensiyalar doirasida BMTning namunaviy shartnomasini qabul qilish kerakligi asoslangan;

BMTning transmilliy jinoyatchilikka qarshi kurash to‘g‘risidagi xalqaro shartnomalari doirasida xorijiy davlat sud qarorlarini tan olish va ijro etish bo‘yicha xalqaro-huquqiy hamkorlikni amalga oshirish jarayonida davlatlarning milliy manfaatlari, xususan tarixiy va madaniy meros bilan bog‘liq bo‘lgan hollarda rad etish asoslari sifatida inobatga olinishi lozimligi asoslangan;

MDH doirasida huquqiy yordam ko‘rsatish to‘g‘risidagi Minsk va Kishinev konvensiyalariga xorijiy davlat sud qarorlarini tan olish va ijro etishning soddalashtirilgan tartibini kiritish zarurligi asoslangan;

O‘zbekiston Respublikasi ushbu sohada faqatgina MDH doirasida qabul qilingan mintaqaviy xalqaro shartnomalarning ishtirokchisi ekanligi, ammo ushbu shartnomalar yopiq xususiyatga ega ekanligidan kelib chiqib “Fuqarolik va tijorat ishlari bo‘yicha chiqarilgan xorijiy sud qarorlarini tan olish va ijro etish to‘g‘risida”gi 2019-yil 2-iyulda qabul qilingan Gaaga konvensiyasiga qo‘shilishi lozimligi asoslangan;

ko‘p tomonlama va ikki tomonlama xalqaro shartnomalarda belgilangan majburiyatlarni samarali bajarilishini ta‘minlash maqsadida axborot almashinuvi bo‘yicha elektron tizimlarni joriy etish lozimligi asoslangan;

xorijiy davlatlar sud qarorlarini tan olish va ijro etish bo‘yicha O‘zbekiston Respublikasining Jinoyat-protsessual kodeksiga ozodlikdan mahrum qilish bilan bog‘liq bo‘lmagan jazolar: jarima, jinoiy yo‘l bilan olingan daromad yoki mol-mulkni musodara qilish yuzasidan chiqarilgan xorijiy davlat jinoyat sudi hukmlarini tan olish va ijro etish, shuningdek, O‘zbekiston Respublikasi “Bolalarni boshqa mamlakatlarga o‘g‘irlab olib ketishning fuqarolik jihatlari to‘g‘risida”gi Gaaga konvensiyasining ishtirokchisi ekanligini inobatga olgan holda, bolalar huquqlarini himoya qilish bilan bog‘liq holatlar yuzasidan xorijiy davlat sudlarining qarorlarini tan olish va ijro etishning soddalashtirilgan tartibini milliy qonunchilikka joriy etish bo‘yicha takliflar asoslangan;

xorijiy davlatning vakolatli sudlari tomonidan chiqarilgan, tan olish orqali ijro etilmaydigan sud qaror (hukm)larni tartibga solish bo‘yicha O‘zbekiston Respublikasi Jinoyat va Fuqarolik protsessual kodekslariga qo‘shimcha va o‘zgartirishlar kiritish zarurati ilmiy-nazariy jihatdan asoslangan.

Tadqiqot natijalarining ishonchligi. Tadqiqot natijalari xalqaro va milliy qonun normalari, rivojlangan davlatlar tajribasi, huquqni qo‘llash amaliyoti, statistik ma‘lumotlarni tahlil qilish natijalari umumlashtirilgan va tegishli hujjatlar bilan rasmiylashtirilgan hamda xulosa, taklif va tavsiyalar aprobatsiyadan o‘tkazilib, ularning natijalari yetakchi milliy va xorijiy nashrlarda e‘lon qilingan.

Tadqiqot natijalarining ilmiy va amaliy ahamiyati. Tadqiqot natijasida ishlab chiqilgan ilmiy xulosalardan ilmiy-tadqiqot faoliyatida, shuningdek, “Xalqaro ommaviy huquq”, “Xalqaro jinoyat huquqi”, “Jinoyat protsessual huquqi”, “Fuqarolik protsessual huquqi”, “Iqtisodiy protsessual huquqi” kabi o‘quv fanlarini ilmiy-nazariy jihatdan yanada boyitishda hamda amaliy mashg‘ulotlarni o‘tkazishda, o‘quv va uslubiy qo‘llanmalarni tayyorlashda, milliy qonunchilikni

takomillashtirishda foydalanish mumkin.

Tadqiqot natijalarining amaliy ahamiyati jinoyat, fuqarolik va iqtisodiy ishalar bo'yicha xalqaro-huquqiy hamkorlik oid bo'lgan qonun ijodkorligi faoliyatida, xususan, normativ-huquqiy hujjatlar tayyorlash hamda ularga o'zgartirish va qo'shimchalar kiritish jarayonida, huquqni qo'llash amaliyotini takomillashtirishga xizmat qiladi.

Tadqiqot natijalarning joriy qilinishi. Xorijiy davlatlar sud qarorlarini tan olish va ijro etish bo'yicha xalqaro-huquqiy hamkorlik bo'yicha olib borilgan ilmiy natijalar asosida:

xorijiy davlatda ozodlikdan mahrum etish tarzidagi jazoga hukm qilingan va jazoni o'tayotgan O'zbekiston Respublikasi fuqarosi – jazoni O'zbekiston Respublikasida o'tashni davom ettirish uchun qabul qilib olinganda xorijiy davlat sudining qarori O'zbekiston Respublikasida tan olinishi va ijroga qaratilishi mumkinligi haqidagi taklifdan O'zbekiston Respublikasining 2024-yil 4-dekabrda "O'zbekiston Respublikasining Jinoyat-protsessual kodeksiga qo'shimchalar va o'zgartirish kiritish to'g'risida"gi O'RQ-1009-son Qonunning 1-moddasi 3-bandi (Jinoyat-protsessual kodeksining 610-modda birinchi qism 1-bandi)ni tayyorlashda foydalanilgan (O'zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi huzuridagi Parlament tadqiqotlari institutining 2025-yil 14-maydagi 9/dn-100-son dalolatnomasi). Ushbu taklifning amalga oshirilishi fuqaroning huquq va manfaatlarini himoya qilish maqsadida xorijiy davlat sudi hukmi bilan tayinlangan jazoning qolgan qismini O'zbekiston Respublikasida davom ettirish uchun huquqiy asos yaratilishiga xizmat qilgan;

jazoni o'tashni davom ettirish uchun – O'zbekiston Respublikasi sudi tomonidan ozodlikdan mahrum etilgan chet el fuqarosi o'zi fuqaroligiga mansub bo'lgan davlatga berilishi yoki xorijiy davlat sudi tomonidan ozodlikdan mahrum etilgan O'zbekiston Respublikasi fuqarosi xorijiy davlatdan qabul qilib olinishi mumkinligi haqidagi taklifdan O'zbekiston Respublikasi 2024-yil 4-dekabrda "O'zbekiston Respublikasining Jinoyat-protsessual kodeksiga qo'shimchalar va o'zgartirish kiritish to'g'risida"gi O'RQ-1009-son Qonunning 1-moddasi 3-bandi (Jinoyat-protsessual kodeksining 611-modda birinchi qism 1-bandi)ni tayyorlashda foydalanilgan (O'zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi huzuridagi Parlament tadqiqotlari institutining 2025-yil 14-maydagi 9/dn-100-son dalolatnomasi). Ushbu taklifning amalga oshirilishi jismoniy shaxslarga nisbatan xorijiy davlat sudi hukmi bilan tayinlangan jazoning o'z vatanida davom ettirishining qonuniy mexanizmini yaratishga xizmat qilgan;

jazoni o'tash uchun xalqaro shartnomalarga muvofiq xorijiy davlat tomonidan topshirilgan mahkumga nisbatan jazo muddati xorijiy davlat sudining hukmi bilan tayinlangan muddatga mutanosib ravishda hisoblanishi haqidagi taklifdan O'zbekiston Respublikasi 2024-yil 4-dekabrda "O'zbekiston Respublikasining Jinoyat-protsessual kodeksiga qo'shimchalar va o'zgartirish kiritish to'g'risida"gi O'RQ-1009-son Qonunning 1-moddasi 3-bandi (Jinoyat-protsessual kodeksining 614-modda birinchi qism)ni tayyorlashda foydalanilgan (O'zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi huzuridagi Parlament tadqiqotlari institutining 2025-yil 14-maydagi 9/dn-100-son dalolatnomasi). Ushbu taklifning amalga oshirilishi xalqaro shartnomalar asosida xorijiy davlatdan O'zbekistonga topshirilgan mahkumga nisbatan xorijiy davlat sudi tomonidan chiqarilgan hukm

(qaror)ni tan olish va ijro etish jarayonida jazoning adolatli va odil sudlov prinsiplariga muvofiq tarzda davom ettirilishini ta'minlashga qaratilgan zarur huquqiy asoslarni shakllantirishga xizmat qilgan;

xorijiy davlat sudining qarorini tan olish va ijroga qaratish O'zbekiston Respublikasining manfaatlariga, suverenitetiga yoki xavfsizligiga zarar yetkazishi mumkinligi haqida xulosaga kelsa, xorijiy davlat sudining qarorini tan olishni va ijroga qaratishni rad etish to'g'risida ajrim chiqarishi haqidagi taklifdan O'zbekiston Respublikasi 2024-yil 4-dekabrda "O'zbekiston Respublikasining Jinoyat-protsessual kodeksiga qo'shimchalar va o'zgartirish kiritish to'g'risida"gi O'RQ-1009-son Qonunning 1-moddasi 3-bandi (Jinoyat-protsessual kodeksining 615-modda ikkinchi qism 3-bandi)ni tayyorlashda foydalanilgan (O'zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi huzuridagi Parlament tadqiqotlari institutining 2025-yil 14-maydagi 9/dn-100-son dalolatnomasi). Ushbu taklifning amalga oshirilishi jinoyat ishlari bo'yicha xorijiy davlat sudi tomonidan chiqarilgan hukm(qaror)ni tan olish va ijro etishda O'zbekiston Respublikasining o'z milliy manfaatlarini himoya qilish samaradorligini oshirishga xizmat qilgan.

Tadqiqot natijalarining aprobatsiyasi. Mazkur tadqiqot natijalari 5 ta ilmiy anjumanda, jumladan, 3 ta xalqaro, 2 ta respublika ilmiy-amaliy anjumanlarida muhokamadan o'tkazilgan.

Tadqiqot natijalarining e'lon qilinganligi. Dissertatsiya mavzusi bo'yicha jami 15 ta ilmiy ish, jumladan, O'zbekiston Respublikasi Oliy ta'lim, fan va innovatsiyalar vazirligi huzuridagi Oliy attestatsiya komissiyasining doktorlik dissertatsiyalar asosiy natijalarini chop etish tavsiya etilgan ilmiy nashrlarda 7 ta ilmiy maqola (3 ta xorijiy nashrlarda) chop etilgan.

Dissertatsiyaning tuzilishi va hajmi. Dissertatsiya tarkibi kirish, to'qqizta paragrafni o'z ichiga olgan uchta bob, xulosa, foydalanilgan adabiyotlar ro'yxati va ilovalardan iborat bo'lib, dissertatsiyaning hajmi 152 betni tashkil etadi.

DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiyaning **kirish** qismida tadqiqot mavzusining dolzarbligi va zarurati, tadqiqotning respublika fan va texnologiyalari rivojlanishining asosiy ustuvor yo'nalishlariga mosligi, tadqiq etilayotgan muammoning o'rganilganlik darajasi, dissertatsiya mavzusining dissertatsiya bajarilayotgan oliy ta'lim muassasasining ilmiy-tadqiqot ishlari rejaları bilan bog'liqligi, tadqiqotning maqsad va vazifalari, obykti va predmeti, usullari, tadqiqotning ilmiy yangiligi va amaliy natijasi, tadqiqot natijalarining ishonchliligi, tadqiqot natijalarining ilmiy va amaliy ahamiyati, ularning joriy qilinganligi, tadqiqot natijalarining aprobatsiyasi, natijalarning e'lon qilinganligi, dissertatsiyaning hajmi va tuzilishi yoritib berilgan.

Dissertatsiyaning "**Xalqaro huquqda xorijiy davlat sud qarorlarini tan olish va ijro etishning nazariy va huquqiy asoslari**" deb nomlangan birinchi bobida xorijiy davlat sud qarorlarini tan olish va ijro etish tushunchasi, sud qarorlarini tan olish va ijro etish bo'yicha xalqaro huquqiy-hamkorlikning shakllanishi va rivojlanishi hamda davlatlar o'rtasidagi sud qarorlarini tan olish va ijro etishni tartibga soluvchi prinsiplarning o'ziga xos jihatlari yoritib berilgan.

Xususan, "*Xorijiy davlat sud qarorlarini tan olish va ijro etish tushunchasi*" deb nomlangan birinchi paragrafda "tan olish" va "ijro etish" tushunchalarining mohiyati, xususiyatlari va o'zaro munosabatlari tahlil qilingan. Muallif ilmiy

adabiyotlar va xorijiy olimlarning yondashuvlarini tahlil qilib, xorijiy davlat sud qarorlarini tan olish va ijro etish bilan bog‘liq asosiy nazariy konsepsiyalarni ochib beradi.

Dissertantning ta’kidlashicha, xorijiy davlat sud qarorlarini tan olish sud hokimiyati tomonidan chiqarilgan qaror yakuniy va yuridik xususiyatga ega bo‘lgan hujjat sifatida davlatning boshqa organlari tomonidan so‘zsiz tan olinishi hamda to‘liq ijro etilishi qonun ustuvorligining muhim sharti hisoblanadi.

Muallif xorijiy davlat sud qarorini tan olish va ijro etish tushunchasiga oid bir qator muhim yondashuvlarni tahlil qiladi. L.Luntsning fikricha, xorijiy davlat sud qarorini “tan olish” unga eksklyuzivlik xususiyatini berishdan iborat. L.Anufriyeva xorijiy davlat sudining qarorini tan olish uni ijro etishning zaruriy sharti ekanligini, xorijiy davlat sud qarorini “tan olish” va “ijro etish” juda yaqin tushunchalar bo‘lsa-da, lekin ular bir-biridan huquqiy tomondan farq qilishini ta’kidlagan. Dissertant P.Barnett, L.Lunts, X.Tursunov, F.Matcher, L.Anufrievaning fikrlariga qisman qo‘shilgan holda, xorijiy davlat sud qarorlarini tan olish va ijro etish tushunchasiga ta’rif beradigan bo‘lsak: sud qarori chiqarilgan davlat hududida qonuniy kuchga kirgan va yuridik xususiyatga ega bo‘lgan hujjat. Ushbu qaror chiqarilgan davlat hududidan tashqarida huquqiy oqibatlarga olib kelishi hamda tan oluvchi davlat qonunchiligiga asosan ijro etilishi kerakligini ta’kidlaydi. Shuningdek, tadqiqotchi jahon amaliyotida sud qarorlarni tan olish va ijro etish xususiyatiga ko‘ra, quyidagicha turlarga bo‘lish mumkinligini ta’kidlaydi: birinchidan, sud qarori ijro etilishi talab qilinmasdan tan olinishi; ikkinchidan, sud qarori tan olinishi orqali ijro etilishi.

Birinchi bobning ikkinchi paragrafi *“Sud qarorlarini tan olish va ijro etish bo‘yicha xalqaro hamkorlikning shakllanishi va rivojlanishi”* deb nomlanib, unda xalqaro huquqiy-hamkorlikning tarixiy rivojlanish bosqichlari tahlil qilingan.

Tadqiqotchining ta’kidlashicha, davlatlararo munosabatlarda xorijiy davlat sud qarorlarini tan olish va ijro etish bo‘yicha xalqaro huquqiy-hamkorlikning rivojlanishi bir necha tarixiy bosqichlarni o‘z ichiga oladi. Birinchi bosqich (XVI-XVII asrlar) Yevropa mamlakatlarida transchegaraviy munosabatlarning rivojlana boshlashi natijasida xalqaro munosabatlarni huquqiy jihatdan tartibga solish zaruratini yuzaga keltirdi. U.Guber davlatlarning suverenitetiga alohida e’tibor qaratgan bo‘lsa, G.Grotsiy, davlatlar va xalqlar o‘rtasida vujudga keladigan munosabatlar xalqaro huquq orqali tartibga solinishi lozimligini ta’kidlab o‘tgan. Ikkinchi bosqichda (XVII asrdan to XX asr boshlarigacha) anglo-sakson huquq oilalarida xorijiy davlat sud qarorlarini tan olish va ijro etish bo‘yicha xalqaro xushmuomalalik (comitas gentium) prinsipi doirasida rivojlanib borgan. Davlatlar o‘rtasida xalqaro munosabatlar rivojlanishi natijasida, fuqarolik-huquqiy munosabatlarga oid ishlar bo‘yicha chiqarilgan qarorlarni tan olish va ijro etish zaruratini yuzaga keltirdi. Uchinchi bosqichda (XX asr o‘rtalaridan hozirgi kungacha) zamonaviy xalqaro huquqning rivojlanishi va inson huquqlarini himoya qilishga qaratilgan imperativ normalarning tan olinishi, shuningdek, xorijiy davlat sud qarorlarini tan olish va ijro etishda davlatlar o‘rtasida xalqaro huquqiy-hamkorlikni amalga oshirish bo‘yicha milliy qonunchilik normalarini uyg‘unlashtirish maqsadida bir qator ko‘p tomonlama shartnomalar qabul qilindi.

Dissertant xorijiy davlat sud qarorlarini tan olish va ijro etishning xalqaro huquqiy-hamkorlik bosqichlarini alohida tahlil qilib, bu borada milliy sud-huquq

tizimlarining uyg'unlashuviga xalqaro shartnomalarning ta'siri masalasini ochib beradi.

Birinchi bobning uchinchi paragrafi *"Davlatlar o'rtasidagi sud qarorlarini tan olish va ijro etishni tartibga soluvchi prinsiplarning o'ziga xos jihatlari"* deb nomlanib, unda xorijiy davlat sud qarorlarini tan olish va ijro etishda qo'llaniladigan xalqaro huquq prinsiplari tahlil qilingan.

Tadqiqotchi xorijiy davlat sud qarorlarini tan olish va ijro etishni tartibga soluvchi prinsiplarni bir necha guruhlariga bo'lib o'rganadi: imperativ (davlatlarning suveren tengligi prinsipi va davlatlarning xalqaro hamkorligi prinsiplari); sohaviy (sud jarayonlarining o'zaro bog'liqligi va res judicata); ixtiyoriylik (o'zarolik prinsipi).

Davlatlarning suveren tengligi prinsipi nuqtai nazaridan, muallif davlatlarning o'z suverenitetini saqlash va boshqa davlatlarning huquq tizimlariga hurmat ko'rsatish masalalarini tahlil qiladi. Xalqaro hamkorlik prinsipi doirasida, davlatlarning o'zaro huquqiy yordamni amalga oshirishdagi majburiyatlarini ko'rib chiqadi.

Alohida e'tibor o'zarolik prinsipiga qaratilgan. Muallif o'zarolik prinsipini qo'llashda dunyodagi huquq oilalarida quyidagicha farqlanishini ta'kidlaydi: 1) Anglo-sakson huquq oilasida, xorijiy davlat sud qarorlari tan olish va ijro etish bo'yicha odil sudlovni ta'minlaydigan huquqiy tizimga amal qilgan hollarda o'zarolik prinsipi qo'llaniladi; 2) roman-german huquq oilasida, xorijiy davlat sud qarorlari tan olish va ijro etishda davlatlar o'rtasida o'zarolik prinsipi, ushbu munosabatlarni tartibga soluvchi ma'lum bir shartnomalar bo'lmaganda qo'llanilishiga urg'u berilgan bo'lsa-da, ammo o'zarolik prinsipini shartnomaning bir elementi bo'lmish yozma shaklda rasmiylashtirishini talab qiladi.

Shuningdek, muallif "res judicata" prinsipining mohiyatini ochib berib, bu prinsip sud qarorlarining yakuniyligini kafolatlashi va bir xil asosga ega bo'lgan da'vo bo'yicha ikki marta sudga tortilmasligini ta'minlashini ta'kidlaydi.

Dissertatsiyaning **"Xorijiy davlatlar sud qarorlarini tan olish va ijro etish bo'yicha xalqaro hamkorlikning huquqiy asoslari"** deb nomlangan ikkinchi bobida sud qarorlarini tan olish va ijro etish bo'yicha davlatlar hamkorligini tartibga soluvchi universal xalqaro shartnomalar tavsifi, mintaqaviy shartnomalar doirasida davlatlararo hamkorlikni tartibga solish asoslari hamda ikki tomonlama shartnomalarning o'ziga xosligi tahlil qilingan.

Ikkinchi bobning birinchi paragrafi *"Sud qarorlarini tan olish va ijro etish bo'yicha davlatlar hamkorligini tartibga soluvchi universal xalqaro shartnomalar tavsifi"* deb nomlanib, unda xorijiy davlat sud qarorlarini tan olish va ijro etish bo'yicha universal xalqaro shartnomalar tahlil qilingan.

Tadqiqotchi universal darajada xorijiy davlat sud qarorlarini tan olish va ijro etish asoslarini tahlil qilar ekan, ularni predmetiga ko'ra jinoiy, fuqarolik hamda iqtisodiy ishlar bo'yicha munosabatlarni tartibga solishga qaratilgan hujjatlarga ajratadi.

Jinoiy ishlar bo'yicha universal shartnomalar doirasida, muallif BMTning "Giyohvandlik vositalari va psixotrop moddalarni g'ayriqonuniy ravishda muomalaga kiritishga qarshi kurash to'g'risida"gi konvensiyasi, "Transmilliy uyushgan jinoyatchilikka qarshi" konvensiyasi va "Korrupsiyaga qarshi kurash to'g'risida"gi konvensiyasini tahlil qiladi. Bu konvensiyalarda jinoiy faoliyat

natijasida olingan mol-mulknı musodara qilish bo'yicha xorijiy davlat sud qarorlarini tan olish va ijro etish mexanizmlari o'rganiladi.

Fuqarolik ishlari bo'yicha universal shartnomalar doirasida, "Bolalarni boshqa mamlakatlarga o'g'irlab olib ketishning fuqarolik jihatlari to'g'risida"gi Gaaga konvensiyasining alohida ahamiyati ko'rsatib berilgan. Mazkur konvensiya xorijiy davlatga noqonuniy olib ketilgan yoki ushlab turilgan bolalarni doimiy yashash joyiga qaytarish bo'yicha xalqaro huquqiy mexanizmni yaratishga qaratilgan.

Iqtisodiy ishlar bo'yicha universal shartnomalar sifatida, BMTning 1958-yil 10-iyunda qabul qilingan "Chet el arbitrajları qarorlarini tan olish va ijroga qaratish" to'g'risidagi Nyu-York konvensiyasi tahlil qilingan. Shuningdek, "Fuqarolik va tijorat ishlari bo'yicha chiqarilgan xorijiy sud qarorlarini tan olish va ijro etish to'g'risida"gi Gaaga konvensiyasi kabi xalqaro hujjatlar ham muallif tomonidan o'rganilgan.

Paragraf so'nggida muallif universal xalqaro shartnomalarning xorijiy davlat sud qarorlarini tan olish va ijro etish bo'yicha hamkorlikning huquqiy asosi sifatidagi ahamiyatini ta'kidlaydi.

Ikkinchi bobning ikkinchi paragrafi "*Mintaqaviy shartnomalar doirasida sud qarorlarini tan olish va ijro etish bo'yicha davlatlar hamkorligini tartibga solish asoslari*" deb nomlanib, unda Mustaqil Davlatlar Hamdo'stligi davlatlari o'rtasidagi mintaqaviy shartnomalar doirasida xorijiy davlat sud qarorlarini tan olish va ijro etish masalalari tahlil qilingan.

Dissertant mintaqaviy shartnomalarni uch yo'nalishda tahlil qiladi: jinoiy, iqtisodiy va fuqarolik ishlari bo'yicha.

Jinoiy ishlar bo'yicha muallif 1993-yil 22-yanvardagi Minsk konvensiyasi va 2002-yil 7-oktyabrdagi Kishinev konvensiyasini tahlil qiladi. Ushbu konvensiyalarda xorijiy davlat sud qaror (hukm)larini tan olish va ijro etish mexanizmlari yoritib berilgan. Dissertant Kishinev konvensiyasining 109-moddasiga asosan, "agar shaxs jinoiy javobgarlikka tortish yoki hukmni ijro etish uchun topshirilmagan bo'lsa, ishtirokchi davlat sudi tomonidan chiqarilgan hukmlarni tan oladi va ijro etadi," degan normalarni tahlil qiladi. Shuningdek, 1998-yil 6-martda qabul qilingan "Ozodlikdan mahrum etish jazosiga hukm qilingan shaxslarni jazoni o'tash uchun topshirish to'g'risida"gi konvensiya doirasida mahkumlarni o'z davlatiga jazoni o'tash uchun topshirish masalalari o'rganilgan.

Iqtisodiy ishlar bo'yicha 1992-yilda qabul qilingan "Xo'jalik faoliyatini amalga oshirish bilan bog'liq nizolarni hal qilish tartibi to'g'risida"gi Kiyev bitimi asosiy mintaqaviy hujjat sifatida tahlil qilingan. Muallif Kiyev bitimining 7-moddasida belgilangan, iqtisodiy ishlar bo'yicha sud qarorlarini tan olish va ijro etish asoslarini batafsil o'rganadi. Shuningdek, Kishinev konvensiyasi doirasida mazkur masalani tartibga soluvchi mezonlarni tahlil qiladi.

Fuqarolik ishlar bo'yicha munosabatlarni tartibga soluvchi shartnomalarda Minsk va Kishinev konvensiyalari doirasida xorijiy davlat sud qarorlarini tan olish va ijro etish masalalari tahlil qilingan. Muallif ushbu konvensiyalarda belgilangan tan olish va ijro etish tartibi, mezonlari va rad etish asoslarini o'rganadi.

Mintaqaviy shartnomalar tahlili natijasida, dissertant xorijiy davlat sud qarorlarini tan olish va ijro etish mexanizmlarining ustuvor jihatlari va kamchiliklarini aniqlaydi. Yevropa Ittifoqi tajribasidan kelib chiqib, "Yevropa sudlar tarmog'i" kabi hamkorlik mexanizmlarini tahlil qiladi.

Ikkinchi bobning uchinchi paragrafi “*Sud qarorlarini tan olish va ijro etish bo‘yicha O‘zbekiston Respublikasining ikki tomonlama shartnomalarning o‘ziga xosligi*” deb nomlanib, unda O‘zbekiston Respublikasining turli davlatlar bilan tuzgan ikki tomonlama shartnomalarida xorijiy davlat sud qarorlarini tan olish va ijro etish masalalari tahlil qilingan.

Tadqiqotchi O‘zbekiston Respublikasi tuzgan ikki tomonlama shartnomalarni uch yo‘nalishda tahlil qiladi: jinoiy, iqtisodiy va fuqarolik ishlar bo‘yicha.

Jinoiy ishlar bo‘yicha xorijiy davlat sud qarorlarini tan olish va ijro etish tartibi ikki turdagi shartnomalar doirasida o‘rganilgan: 1) Ozodlikdan mahrum etilgan shaxslarni jazoni o‘tashni davom ettirishni tartibga soluvchi shartnomalar; 2) Huquqiy yordam va huquqiy munosabatlar to‘g‘risidagi shartnomalar.

Fuqarolik va iqtisodiy ishlar bo‘yicha xorijiy davlat sud qarorlarini tan olish va ijro etishni tartibga soluvchi normalar O‘zbekiston Respublikasining Qozog‘iston, Qirg‘iziston, Turkmaniston, Xitoy Xalq Respublikasi, Koreya Respublikasi, Gruziya, Latviya, Litva, Turkiya va Chexiya davlatlari bilan tuzgan shartnomalari tahlil qilingan. Shu bilan birga ushbu shartnomalarning umumiy va farqli jihatlari, jumladan yo‘nalishiga ko‘ra (aniq yo‘nalish yoki keng qamrovli), rad etish asoslari va tan olish tartibi kabi masalalar bo‘yicha qiyosiy-huquqiy tahlil o‘tkazilgan.

Dissertatsiyaning “**Xorijiy davlat sud qarorlarini tan olish va ijro etish bo‘yicha xalqaro-huquqiy hamkorlikka oid shartnomalarni milliy qonunchilikka implementatsiya qilish masalalari**” deb nomlangan uchinchi bobida jinoiy, fuqarolik va iqtisodiy ishlar bo‘yicha xorijiy davlatlar sud qarorlarini tan olish va ijro etish bo‘yicha ushbu shartnomalarda belgilangan normalarning O‘zbekiston Respublikasi qonunchiligiga implementatsiya qilish masalalari tahlil qilingan.

Uchinchi bobning birinchi paragrafi “*Jinoiy ishlari bo‘yicha xorijiy davlatlar sud qarorlarini tan olish va ijro etish bo‘yicha xalqaro-huquqiy hamkorlikka oid shartnomalarni O‘zbekiston Respublikasi qonunchiligiga implementatsiya qilish*” deb nomlanib, unda jinoiy ishlar bo‘yicha xalqaro-huquqiy hamkorlik normalarining milliy qonunchilikda aks etishi tahlil qilingan.

Dissertant xalqaro shartnomalarda belgilangan normalarning milliy qonunchilikka implementatsiyasini tahlil qilib, O‘zbekiston Respublikasining milliy qonunchiligida jinoiy ishlari bo‘yicha xorijiy davlat sud hukmlarini tan olish va ijro etish bosqichlari va tartibini ochib beradi.

Muallif jinoiy ishlari bo‘yicha xorijiy davlat sudining hukmni (qaror) tan olish va ijro etishni amalga oshirish 4 bosqichdan iborat ekanligini aniqlagan. Shuningdek, jinoyat sudlari tomonidan xorijiy davlat qonunchiligi asosida hukm(qaror)da tayinlangan jazoning milliy qonunchilik normalariga mutanosibligini va xalqaro shartnomalarda belgilangan shartlarga rioya etilganligini tekshirilishi ta’kidlanadi.

Tadqiqotchi O‘zbekiston Respublikasi Jinoyat-protsessual kodeksida xorijiy davlat sud hukm(qaror)larini tan olish va ijro etishni tartibga soluvchi me’yorlarni kengaytirish lozimligini, xususan, ozodlikdan mahrum qilish bilan bog‘liq bo‘lmagan jazolar, jarima, jinoiy yo‘l bilan olingan daromad yoki mol-mulkni musodara qilish bo‘yicha normalarni milliy qonunchilikka implementatsiya qilish zaruratini ta’kidlaydi.

Uchinchi bobning ikkinchi paragrafi “*Fuqarolik munosabatlarga oid xorijiy*

davlat sud qarorlarini tan olish va ijro etish bo'yicha xalqaro-huquqiy hamkorlikka oid shartnomalarni O'zbekiston Respublikasining milliy qonunchiligida tartibga solinishi" deb nomlanib, unda fuqarolik ishlari bo'yicha xalqaro-huquqiy hamkorlik normalarining milliy qonunchilikda aks etishi tahlil qilingan.

Dissertant O'zbekiston Respublikasi Konstitutsiyasining 24-moddasida, "O'zbekiston Respublikasi hududidagi chet el fuqarolarining va fuqaroligi bo'lmagan shaxslarning huquq va erkinliklari xalqaro huquq normalariga muvofiq ta'minlanadi" deyilgan hamda Fuqarolik kodeksining 1158-moddasi, 1-qismida, chet el elementi ishtirok etgan munosabatlarni xalqaro shartnomalar va e'tirof etilgan xalqaro taomillar asosida tartibga solish belgilanganligi xalqaro-huquqiy hamkorlik uchun muhim huquqiy asos bo'lishini ta'kidlaydi.

Tadqiqotchining ta'kidlashicha, O'zbekiston Respublikasida fuqarolik ishlari bo'yicha xorijiy davlat sud qarorlarini tan olish va ijro etish xalqaro shartnomalar asosida amalga oshiriladi. Xususan, O'zbekiston Respublikasi tan olish orqali ijro etish xususiyatiga ega bo'lgan 3 turdagi qaror(hal qiluv)lari bo'yicha xalqaro huquqiy-hamkorlikni amalga oshiradi. Ushbu turdagi qarorlarning belgisi sifatida, sud muhokamasi o'tkazilgandan so'ng qabul qilinganligi ta'kidlanadi.

Muallif O'zbekiston Respublikasi bolalar huquqlarini himoya qilishga qaratilgan xalqaro huquqiy-hamkorlikni tahlil qilib, "Bolalarni boshqa mamlakatlarga o'g'irlab olib ketishning fuqarolik jihatlari to'g'risida"gi Gaaga konvensiyasi ishtirokchisi bo'lsa-da, noqonuniy olib ketilgan yoki ushlab turilgan bolalarni o'z vatanlariga qaytarish bo'yicha maxsus tartib-tamoillar o'tkazmasdan xorijiy davlat sudi qarorlarini tan olish va ijro etishga oid normalar milliy qonunchilikda belgilanmaganligini aniqlaydi.

Uchinchi bobning uchinchi paragrafi "*Iqtisodiy ishlari bo'yicha xorijiy davlatlar sudlarining qarorlarini tan olish va ijro etish doirasida xalqaro huquqiy hamkorlik shartnomalarini O'zbekiston Respublikasi milliy qonunchiligi bilan uyg'unlashtirish*" deb nomlanib, unda iqtisodiy ishlar bo'yicha xorijiy davlat sud qarorlarini tan olish va ijro etishga oid bo'lgan xalqaro-huquqiy hamkorlik normalarining milliy qonunchilikda aks etishi tahlil qilingan.

Dissertant O'zbekiston Respublikasi iqtisodiy ishlar bo'yicha xorijiy davlat sud qarorlarini tan olish va ijro etish mexanizmlarini tahlil qilib, xalqaro shartnomalarda va milliy qonunchilikda belgilangan normalarning amaliy qo'llanilishi masalalarini o'rganadi.

Muallif O'zbekiston Respublikasi Iqtisodiy protsessual kodeksi (IPK)ning 248-modda 1-bandida iqtisodiyot nizolar bo'yicha xorijiy davlat sudi tomonidan qabul qilingan hal qiluv qarorlarini tan olish va ijroga qaratish bo'yicha tegishli xalqaro shartnomalar mavjud bo'lgan taqdirda milliy qonunchilikka muvofiq amalga oshirilishi belgilanganligini ta'kidlab, ushbu normalar xalqaro shartnomalarga ustuvorlik berganligini aniqlaydi.

Tadqiqotchining fikricha, O'zbekiston Respublikasining iqtisodiy protsessual qonunchiligidan, kelib chiqadigan bo'lsak, xorijiy davlat sudi yoki arbitraj qarorini tan olish bo'yicha taqdim qilingan iltimosnomaga muvofiq ochiq sud majlisida 6 oy ichida ko'rib chiqiladi. Xususan, fuqarolik va jinoiy ishlardan farqli jihati sifatida, iqtisodiy ishlar bo'yicha Qoraqalpog'iston Respublikasi sudi, viloyatlar va Toshkent shahar sudlari (ikkinchi intansiya) tomonidan ko'rib chiqilishini ta'kidlaydi.

Dissertant O‘zbekiston Respublikasi Oliy sudi Plenumining 2023-yil 20-noyabrdagi “Chet ellik shaxslar ishtirokidagi ishlarni iqtisodiy sudlar tomonidan ko‘rishda qonunchilik hujjatlarini qo‘llashning ayrim masalalari haqida”gi 27-sonli qarorini tahlil qilib, iqtisodiy ishlar bo‘yicha xorijiy davlat sud qarorlarini tan olish va ijro etishda bir xil sud amaliyotini shakllantirish masalasini o‘rganadi.

Tadqiqotchi iqtisodiy ishlar bo‘yicha xalqaro huquqiy-hamkorlikni takomillashtirish uchun O‘zbekiston Respublikasi iqtisodiy sudlarining xorijiy davlat sudlari bilan bevosita muloqotini ta‘minlash, shuningdek, zamonaviy raqamli texnologiyalardan foydalanishni taklif qiladi.

Muallif O‘zbekiston Respublikasi sudlariga 2024-yil holatiga ko‘ra xorijiy davlat sud qaror (hukm)larini tan olish va ijro etish yuzasidan xususan, jinoyat ishlari bo‘yicha 52 ta, fuqarolik ishlari bo‘yicha 85 ta va iqtisodiy ishlar bo‘yicha 29 ta iltimosnomalar kelib tushganligini hamda ushbu sohada uchrayotgan muammolarni hal qilishda xalqaro shartnomalarda belgilangan normalarni milliy qonunchilikka implementatsiya qilish, sud amaliyotini birxillashtirish va xalqaro hamkorlik mexanizmlarini takomillashtirish kabi amaliy takliflarni ilgari suradi.

XULOSA

Xorijiy davlatlar sud qarorlarini tan olish va ijro etish bo‘yicha xalqaro-huquqiy hamkorlik qilish masalalarini o‘rganish va tahlil qilishga bag‘ishlangan mazkur ilmiy tadqiqot ishi natijalari bo‘yicha quyidagi ilmiy – nazariy xulosalar, qonunchilikni takomillashtirish bo‘yicha taklif va tavsiyalar ishlab chiqildi.

I. Ilmiy-nazariy xulosalar:

1. Davlatlararo xalqaro-huquqiy hamkorlik doirasida xorijiy davlat sud qarorlarini tan olish va ijro etish bo‘yicha turli xil fikrlar bildirilgan bo‘lsada, lekin xalqaro hujjatlarda yagona ta‘rif berilmagan. Xorijiy davlat sud qarorlarini tan olish va ijro etish bo‘yicha mualliflik ta‘rifi ishlab chiqildi:

“Xorijiy davlat sud qarorlarini tan olish va ijro etish - qarorni tan oluvchi davlat milliy sudlarining qonuniy kuchga kirgan qarorlari kabi bir xil yuridik kuch berilishini anglatadi. Bu esa, sud qarorlari chiqarilgan davlatdan tashqarida ham huquqiy oqibatlarga olib kelishini va tegishli tartibda ijro etilishi kerakligini tushuniladi.

Xorijiy davlat sud qarorlarini tan olish – sudning qonuniy kuchga kirgan qarorini tan oluvchi davlatning milliy sudlari tomonidan xuddi shunday turdagi munosabatlar bo‘yicha chiqariladigan qarorlar bilan tenglashtirishini anglatadi.

Xorijiy davlat sud qarorlarini ijro etish – tan oluvchi davlatning milliy sudlari tomonidan chiqarilgan qarorlar qanday tartibda ijro etilsa, xorijiy davlat sudlarining qarorlari ham shunday tarzda ijro etilishiga roziligini bildiradi”.

2. Xorijiy davlat sud qarorlarini tan olish va ijro etish bo‘yicha qarorlar xususiyatiga ko‘ra *ikki turga* bo‘linadi:

sud qarori ijro etilishi talab qilinmasdan tan olinishi – bunday turdagi qarorlar shaxslarning huquqiy holatini belgilash bo‘yicha chiqarilgan qarorlar hisoblanadi.

sud qarori tan olinishi orqali ijro etilishi – bunday turdagi qarorlarni tan olish orqali davlat o‘z hududida xalqaro shartnomalarda belgilangan shartlarga rioya qilgan holda milliy qonunchiligiga muvofiq qaror ijrosi bo‘yicha majburiy

mexanizimni amalga oshirish tushuniladi.

3. Davlatlarning huquq tizimi va qonunchiligidagi tafovutlarni hisobga olgan holda, xorijiy davlat sud qarorlarini tan olish va ijro etish bo'yicha xalqaro huquqiy-hamkorlikni amalga oshirishda sudlar tomonidan chiqarilgan qarorlar o'ziga xos belgiga ega bo'lishi lozim, ushbu belgiga quyidagi ta'rif berildi: *nizo bo'yicha sud muhokamasi o'tkazilgandan so'ng qabul qilingan va qonuniy kuchga kirgan sud qarori*.

4. Xorijiy davlat sud qarorlarini tan olish va ijro etish bo'yicha xalqaro – huquqiy hamkorlikning genezisi quyidagi davrlarga bo'linadi:

Birinchi davr (XVI-XVII asrlar) – davlat suvereniteti tushunchasining paydo bo'lishi va xalqlar o'rtasida vujudga keladigan munosabatlarni xalqaro huquq orqali tartibga solinishi lozimligi bo'yicha yondashuvlarning paydo bo'lishi.

Ikkinchi davr (XVII asrdan to XX asrning boshlarigacha) – davlatlar o'rtasida xalqaro munosabatlar rivojlanishi natijasida, fuqarolik-huquqiy munosabatlardan kelib chiqadigan ishlar bo'yicha chiqarilgan qarorlarni tan olish va ijro etishga muhtojlik sezila boshlaydi. Natijada davlatlar vujudga kelgan munosabatlarni ikki tomonlama xalqaro shartnomalar orqali tartibga solishni boshlashadi.

Uchinchi davr (XX asr o'rtalaridan hozirgi kungacha) – dunyoda integratsiyalashuv jarayonlarining boshlanishi va davlatlar o'z fuqarolarining huquqlarini himoya qilish maqsadida ko'p tomonlama va ikki tomonlama xalqaro shartnomalar imzolashadi. Ushbu jarayonlar bevosita, davlatlarning milliy sud-huquq tizimini modernizatsiya qilishga hamda xorijiy davlat sud qarorlarini tan olish va ijro etish bo'yicha xalqaro standartlarning milliy qonunchilikka joriy etilishiga olib keldi. Bu orqali esa davlatlar o'z milliy qonunchiligida xorijiy davlat sudlarning qarorlarini tan olish va ijro etish tartibini yaratdi.

5. Xorijiy davlat sud qarorlarini tan olish va ijro etish bo'yicha davlatlararo hamkorlikni amalga oshirish bo'yicha prinsiplarni quyidagicha tasniflash mumkin:

a) *ixtiyoriylik (o'zarolik prinsipi)* – o'zarolik prinsipi xalqaro xushmuomalalik doktrinasiga asoslanib, bir davlatda tan olingan huquqlarning boshqa davlatda ham tan olinishini nazarda tutadi. Bu prinsip anglo-sakson huquqida sud amaliyot orqali, roman-german huquqida esa yozma ravishda rasmiylashtiriladi.

b) *imperativ (davlatlarning suveren tengligi prinsipi va davlatlarning xalqaro hamkorligi prinsipi)* - inson huquqlarini himoya qilish har bir davlatning vazifasi hisoblanganligi sababli, xorijiy davlat sud qarorlarini tan olish va ijro etishda tan oluvchi davlat o'z hududiy ustunligidan voz kechmagan holda, xalqaro hamkorlik prinsipidan kelib chiqib, xorijiy davlat sud qarorlarini ixtiyoriy ravishda tan olish va ijro etish amaliyotini yo'lga qo'ydi.

c) *sohaviy (sud jarayonlarining o'zaro bog'liqligi va res judicata)* - bir davlat sudi tomonidan chiqarilgan qarorlarning boshqa davlat sudi tomonidan tan olish jarayoni qarorda belgilangan normalarning ijro etilishini amalga oshirishni nazarda tutadi. Shuningdek, xorijiy davlat sud qarorlarini tan olish va ijro etishda, davlatlar xalqaro standartlarga rioya qilgan holda, bir-birlarining sud organlari tomonidan chiqarilgan qarorlarning aniqligi, ishonchligi va yakuniyligini ta'minlaydi.

6. Universal mintaqaviy shartnomalar Minsk va Kishinev konvensiyalari hamda Kiyev bitimida fuqarolik, iqtisodiy va jinoyat ishlari xorijiy davlat sud qarorlarini tan olish va ijro etish bo'yicha normalarni o'zida aks ettirgan bo'lsa-da,

ammo ushbu shartnomalar o'z xususiyatiga ko'ra farqlanadi.

*Birinchi*dan, ushbu xalqaro shartnomalar tabiatiga ko'ra yopiq turdagi shartnomalar hisoblanadi.

*Ikkinchi*dan, Kiyev bitimi faqat MDHga a'zo davlatlari o'rtasida xo'jalik nizolari bo'yicha chiqarilgan sud qarorlarini o'zaro tan olish va ijro etish tartibini belgilaydi. Ushbu bitim xo'jalik nizolari bo'yicha xorijiy davlat sud qarorlarini tan olish va ijro etishda maxsus normalarni (lex specialis derogat legi generali) o'z ichiga oladi.

*Uchinchi*dan, Minsk va Kishinev konvensiyalarida xorijiy davlat sud qarorlarini xususiyatiga ko'ra, *sud qarori ijro etishni talab qilmasdan tan olish va sud qarori tan olish orqali ijro etish* kabi turlarga ajratilganligi to'g'risidagi normalarni belgilab berdi. "*Res judicata*" qoidasidan kelib chiqqan holda, xorijiy davlat sud qarorlarini tan olish va ijro etish jarayonida, tan oluvchi davlat qarorni mohiyatiga ko'ra emas balki, xalqaro shartnomada belgilangan normalar rioya etilganligini tekshirishi kerakligi to'g'risidagi normalar belgilandi.

*To'rtinchi*dan, Kishinev konvensiyasida Minsk konvensiyasidan farqli o'laroq, "*fuqarolik ishlari*" tushunchasi iqtisodiy nizolarni hal etish bilan bog'liq ishlarni ham qamrab olishi to'g'risidagi normalar belgilandi.

II. Xalqaro huquq sohasini rivojlantirish bo'yicha taklif va tavsiyalar:

1. BMTning "Giyohvandlik vositalari va psixotrop moddalarining noqonuniy aylanishiga qarshi kurash to'g'risida"gi, "Transmilliy uyushgan jinoyatchilikka qarshi to'g'risida"gi va "Korrupsiyaga qarshi kurash to'g'risida"gi konvensiyalarida hamda davlatlarning ikki tomonlama huquqiy yordam ko'rsatish to'g'risidagi xalqaro shartnomalarida xorijiy davlat sudi tomonidan chiqarilgan qarorlar, agar davlat suvereniteti, xavfsizligi va jamoat tartibiga zid kelgan hollarda ijro etuvchi davlat sudlari yoki vakolatli organlari tomonidan milliy qonunchiligidan kelib chiqqan holda rad qilish to'g'risida qaror chiqarishi mumkinligi belgilangan. Ammo, transmilliy jinoyatlarni sodir etishda tarixiy yoki madaniy meros bilan bog'liq bo'lgan obyektlardan jinoyat quroli sifatida foydalanish ehtimoli hisobga olinmagan (*Ozarbayjon Respublikasi tajribasi*). Har bir davlat hududida qadimiy tarixiy meros obyektlari mavjudligini hisobga olib, yuqorida qayd etilgan konvensiyalar doirasida belgilangan rad qilish asoslari davlatlarning manfaatlarini himoya qilishga to'liq javob bermaydi. Shu sababli, mazkur konvensiyalar doirasida rad qilish asoslarini, "*tarixiy va madaniy merosiga zarar yetkazishi mumkin deb hisoblanadigan hollarda*" degan normalar bilan to'ldirish taklif etiladi. Yuqoridagilardan kelib chiqqan holda:

1) BMTning "Giyohvandlik vositalari va psixotrop moddalarining noqonuniy aylanishiga qarshi kurash to'g'risida"gi konvensiyaning 7-modda 15-bandi "b" kichik bandiga quyidagi o'zgartirish va qo'shimchalar kiritish taklif etiladi:

"agar so'ralayotgan Tomon mazkur iltimosni bajarish o'zining suverenitetiga, xavfsizligiga, jamoat tartibi, tarixiy va madaniy merosiga yoki boshqa muhim manfaatlariga zarar yetkazishi mumkin deb hisoblasa."

2) "Transmilliy uyushgan jinoyatchilikka qarshi" kurash to'g'risidagi konvensiyaning 18-modda 21-bandi "b" kichik bandiga quyidagi o'zgartirish va qo'shimchalar kiritish taklif etiladi:

“agar so‘ralayotgan ishtirokchi davlat iltimosni bajarish uning suverenitetiga, xavfsizligiga, jamoat tartibi, tarixiy va madaniy merosiga yoki boshqa hayotiy muhim manfaatlariga zarar yetkazishi mumkin deb hisoblasa”

3) “Korrupsiyaga qarshi kurash to‘g‘risida”gi konvensiyaning 46-modda 21-bandi “b” kichik bandiga quyidagi o‘zgartirish va qo‘shimchalar kiritish taklif etiladi:

“agar so‘ralayotgan ishtirokchi davlat iltimosni bajarish uning suverenitetiga, xavfsizligiga, jamoat tartibi, tarixiy va madaniy merosiga yoki boshqa hayotiy muhim manfaatlariga zarar yetkazishi mumkin deb hisoblasa”

2. BMTning transmilliy jinoyatlarga qarshi kurash konvensiyalarida ishtirokchi davlatlar o‘rtasida xorijiy davlat sud qarorlarini tan olish va ijro etish jinoyatchilikka qarshi kurashning mexanizmi sifatida belgilab qo‘yildi. Ushbu konvensiyalarda belgilangan normalarni bir xilda qo‘llash va ishtirokchi davlatlarning milliy qonunchiligidagi farqli jihatlarni e‘tiborga olgan holda, hamda huquqiy yordam ko‘rsatish bo‘yicha BMTning mahkumlarni topshirish, ekstraditsiya, jinoiy odil sudlov sohalarida namunaviy shartnomalari bo‘lgani kabi, *“Xorijiy davlat sud qarorlarini tan olish va ijro etish bo‘yicha BMTning namunaviy shartnomasi”ni qabul qilish taklif qilinadi.* Bunday shartnomaning qabul qilinishi xorijiy davlat sudlari tomonidan qabul qilingan qarorlarni tan olish va ijro etish bo‘yicha davlatlararo huquqiy-hamkorlik samaradorligini oshirishga xizmat qiladi.

Taklif etilayotgan *“Xorijiy davlat sud qarorlarini tan olish va ijro etish bo‘yicha BMTning namunaviy shartnomasi”*da mazkur masalani tartibga solishda davlatlarning suveren tengligi prinsipi va davlatlarning xalqaro hamkorligi prinsipi, o‘zarolik prinsipi, sud jarayonlarining o‘zaro bog‘liqligi va res judicata prinsiplarining asosida tartibga solinishi tavsiya etiladi. Ushbu prinsiplar sohada davlatlar o‘rtasida xalqaro-huquqiy munosabatlarni mustahkamlash va samaradorligini oshirish uchun muhim ahamiyatga ega deb hisoblaymiz.

3. “Bolalarni boshqa mamlakatlarga o‘g‘irlab olib ketishning fuqarolik jihatlari to‘g‘risida”gi Gaaga konvensiyasi universal xalqaro shartnoma ekanligi va undagi ishtirokchi davlatlar bugungi kunda Minsk va Kishinev konvensiyalariga a‘zo ekanligini e‘tiborga olgan holda, bolalar huquqlarini himoya qilish bo‘yicha xorijiy davlat sud qaror tan olish va ijro etishning soddalashtirilgan tartibi bo‘yicha normalarni kiritishni maqsadga muvofiq deb hisoblaymiz. Minsk konvensiyasining 51-modda 2-qismi: *“Mazkur konvensiyaning 53-moddasi 2 va 3 bandalarida nazarda tutilgan normalar, noqonuniy olib ketilgan yoki ushlab turilgan bolalarni o‘z vatanlariga qaytarish bo‘yicha qarorlari tan olish va ijro etishga nisbatan qo‘llanilmaydi”.*

Kishinev konvensiyasining 54-modda 3-bandi: *“Mazkur konvensiyaning 56-moddasi 2 va 3 bandalarida nazarda tutilgan normalar, noqonuniy olib ketilgan yoki ushlab turilgan bolalarni o‘z vatanlariga qaytarish bo‘yicha qarorlari tan olish va ijro etishga nisbatan qo‘llanilmaydi”.*

4. Ishtirokchi davlatlarning vakolatli sudlari tomonidan chiqarilgan sud qarorlarini tan olish va ijro etish qayd etib o‘tilgan bo‘lsada, uni amalga oshirish mexanizmi sifatida telekommunikatsiya vositalaridan foydalanish bo‘yicha normalar mavjud emas. Kishinev konvensiyasining 6-moddasi 3-qismi bilan to‘ldirilishi maqsadga muvofiq:

Ahdlashuvchi Tomonlar o'zaro huquqiy yordam ko'rsatish bo'yicha protsessual va boshqa harakatlarni bajarish to'g'risidagi hujjatlarni axborot texnologiyalari vositalari orqali amalga oshirilishi mumkin. Ahdlashuvchi Tomonlar telekommunikatsiya vositalaridan foydalanishda maxfiylik darajasiga oid bo'lgan qoidalarni qo'shimcha tarzda belgilaydilar.

5. Xorijiy davlatlar sud qarorlarini tan olish va ijro etish bo'yicha xalqaro hujjatlar (Minsk va Kishinev konvensiyalari) bugungi kun talablariga to'liq muvofiq kelmaydi. Mazkur xalqaro hujjatlarda belgilangan normalar bir-birini takrorlovchi xususiyatga ega va sud qarorlarini tan olish va ijro etilishi bo'yicha davlatlararo yuborilgan so'rovlarning bajarishda muddatlar belgilanmagan. O'z navbatida, ushbu xalqaro hujjatlarning yopiq turdagi shartnomalar ekanligini hisobga olgan holda:

O'zbekiston Respublikasi 2019-yilning 2-iyulda "Fuqarolik va tijorat ishlari bo'yicha chiqarilgan xorijiy sud qarorlarini tan olish va ijro etish to'g'risida"gi Gaaga konvensiyasiga qo'shilishi lozim. Bu orqali mamlakatimizda sud hokimiyatiga bo'lgan ishonchning ortishi bilan bir qatorda, davlatlararo hamkorlik kengayishiga, hamda xorijiy davlat sud qarorlarini tan olish va ijro etish bo'yicha sodda va samarali tizimning yaratilishiga, shuningdek, xalqaro shartnomalardagi normalarni milliy qonunchilikka implementatsiya qilinishiga xizmat qiladi.

6. Xorijiy davlatlar sud qarorlarini tan olish va ijro etish bo'yicha O'zbekiston Respublikasining boshqa davlatlar bilan imzolagan xalqaro shartnomalarida jinoyat, fuqarolik va iqtisodiy yo'nalishlar doirasida belgilangan normalarning o'ziga xosligiga ko'ra:

Birinchidan, xorijiy davlat hukm (qaror)larini tan olish va ijro etish jarayonida, hukmni tan oluvchi davlat sudlari, milliy qonunchilik talablarini inobatga olgan holda, hukmda belgilangan jazoga mutanosib tarzda jazo muddatini qayta belgilaydi.

Ikkinchidan, mahkum tomonidan yoki uning qonuniy vakili tomonidan ariza taqdim qilinishidan tashqari, hukmni tan olish va ijro etish bo'yicha ishtirokchi davlatlarning vakolatli organlarining yozma arizasi bo'lishi lozim. Shuningdek, "jazoni o'z yurtida o'tash" (*repatriatsiya*) prinsipiga muvofiq, hukmni tan oluvchi va ijro etuvchi davlat sudi, o'z fuqarosiga nisbatan tayinlangan jazoning qolgan qismini o'z mamlakatida o'tashi uchun hukm chiqaruvchi davlatga iltimosnoma yuborishi mumkin.

Uchinchidan, hukmni tan oluvchi va ijro etuvchi davlat, insonparvarlik prinsipiga asosan mahkumga nisbatan afv yoki amnistiya qo'llash huquqiga ega (*hukm qilingan shaxslarni jazoni o'z yurtida o'tash bo'yicha O'zbekiston Respublikasining Ozarbayjon bilan tuzilgan shartnomasi 14-moddasi, Qozog'iston bilan tuzilgan shartnomasi 14-moddasi, Ukraina bilan tuzilgan shartnomasi 13-modda va Gruziya bilan tuzilgan shartnomasi 12-modda*).

To'rtinchidan, jinoyat ishlari bo'yicha hukmlarni tan olish va ijro etish fuqarolik va iqtisodiy ishlar bo'yicha qoidalardan farqli ravishda taraflar (mahkum)ning ishtirokisiz amalga oshiriladi.

Beshinchidan, xorijiy davlat sud hukm (qaror)larini tan olish va ijro etish bo'yicha mintaqaviy (Kiyev bitimi, Minsk va Kishinev konvensiyalari) va ikki tomonlama shartnomalarning BMTning universal shartnomalaridan farqli jihati sifatida mazkur jarayonni tartibga soluvchi normalarni o'z ichiga oladi.

Oltinchidan, davlatlararo huquqiy yordam va munosabatlar bo'yicha tuzilgan

shartnomalarda belgilangan normalarga muvofiq, ishtirokchi davlatlarning jinoyat ishlari bo'yicha sudlari tomonidan chiqarilgan hukmning xususiyatidan kelib chiqib, fuqarolik-huquqiy qismi bo'yicha yetkazilgan zararlarni tan olish va ijro etish ham amalga oshiriladi.

Yettinchidan, sud qarorlariga berilgan ta'riflar xilma-xilligi sababli, xalqaro shartnomalar doirasida qaysi yo'nalish (fuqarolik va iqtisodiy)da hamkorlikni amalga oshirishdan qat'iy nazar, ishtirokchi davlatlarning sudlari tomonidan chiqarilgan qarorlarni tan olish va ijro etishning asosiy belgisi sifatida, nizo bo'yicha, qaror davlatning oliy hokimiyati nomidan chiqarilganligi va odil sudlovni amalga oshirish bo'yicha protsessual normalarga rioya qilinganligiga alohida e'tibor qaratishi zarur.

Yuqoridagilarga ko'ra, xalqaro shartnomalarda belgilangan o'ziga xos xususiyatlarni inobatga olib: *"Xorijiy davlat sud qarorlarini tan olish va ijro etishda Ahdlashuvchi davlatlarning vakolatli organlari o'rtasida axborotlar almashuvuvi bo'yicha yagona elektron tizim yaratish zarur"*ligi taklif etiladi.

III. Milliy qonunchilikni takomillashtirish bo'yicha taklif va tavsiyalar:

1. O'zbekiston Respublikasi Jinoyat-protsessual kodeksida belgilangan normalarga muvofiq, xorijiy davlat jinoyat sudlari tomonidan chiqarilgan hukmlarni tan olish va ijro etish to'rt boshqichni qamrab oladi:

Birinchi bosqich – mahkum yoki uning qonuniy vakili arizasi bilan O'zbekiston Respublikasi Bosh prokuraturasiga murojaat qiladi.

Ikkinchi bosqich – O'zbekiston Respublikasi Bosh prokuraturasi xorijiy davlat vakolatli organiga arizada ko'rsatilgan masala va unga tegishli bo'lgan hujjatlarni taqdim qilish bo'yicha so'rov yuboradi.

Uchinchi bosqich – yuborilgan so'rov xorijiy davlat vakolatli organi tomonidan qanoatlantirilgandan so'ng, Bosh prokuror yoki uning o'rinbosari tomonidan, mahkumning yashash joyi bo'yicha jinoyat ishlari bo'yicha tuman (shahar) sudiga (birinchi instansiya) iltimosnoma kiritiladi.

To'rtinchi bosqich – iltimosnomani sud tomonidan ko'rib chiqish jarayonida, hukmda tayinlangan jazo qismining milliy qonunchilik normalariga mutanosibligini, xalqaro shartnomalarda belgilangan shartlarga rioya etilganligini tekshiradi.

Shuningdek, O'zbekiston Respublikasi ishtirokchisi hisoblanadigan xalqaro shartnomalarda, ozodlikdan mahrum qilish bilan bog'liq bo'lmagan jazolar: jarima, jinoiy yo'l bilan olingan daromad yoki mol-mulkni musodara yuzasidan xorijiy davlat jinoyat sudi tomonidan chiqarilgan hukmlarini tan olish va ijro etish bo'yicha normalar milliy qonunchilikka implementatsiya qilinmagan.

Yuqoridagilardan kelib chiqqan holda, O'zbekiston Respublikasining Jinoyat-protsessual kodeksiga quyidagi o'zgartirish va qo'shimchalar kiritish lozim:

610-moddani quyidagi mazmundagi 5-band bilan to'ldirish va 6-bandni quyidagi tahrirda bayon qilish taklif etiladi:

"5) xorijiy davlat sudi tomonidan ozodlikdan mahrum qilish bilan bog'liq bo'lmagan jazolar tayinlangan bo'lsa yoki jinoiy yo'l bilan olingan daromad yoki mol-mulkni musodara qilish belgilangan bo'lsa;

6) O'zbekiston Respublikasining xalqaro shartnomalarida nazarda tutilgan boshqa hollarda."

613-moddani quyidagi mazmundagi 6-qism bilan to'ldirish:

“jinoiy yo'l bilan olingan daromad yoki mol-mulkni musodara bo'yicha hukmni tan olish va ijro etish bilan bog'liq bo'lgan hollarda, mulk joylashgan joydagi jinoyat ishlari bo'yicha tuman (shahar) sudining sudyasi tomonidan ko'rib chiqiladi.”

2. O'zbekiston Respublikasi Jinoyat-protsessual kodeksida, tan olish orqali ijro etish xususiyatiga ega bo'lmagan xorijiy davlat jinoyat ishlari bo'yicha sudlari tomonidan chiqarilgan hukmlarni tan olishga oid bo'lgan normalar belgilanmagan. Xususan, har bir davlatda jinoyat sodir etgan shaxsning ma'lumotlari yuritilishidan kelib chiqib, shaxsga nisbatan jazo tayinlash vaqtida, xorijiy davlat sudining hukmi asosida olingan ma'lumotlar javobgarlikni yengillashtiruvchi yoki og'irlashtiruvchi holat sifatida hisobga olinishi mumkin. O'z navbatida, Minsk konvensiyasining 76¹-moddasi va Kishinev konvensiyasining 99-moddasida belgilangan normalarning milliy qonunchilikka implementatsiyasini amalga oshirilishiga xizmat qiladi. Shundan kelib chiqib, Jinoyat-protsessual kodeksi 610¹-moddasiga quyidagi o'zgartirish va qo'shimchalar kiritish lozim:

610¹-modda. Xorijiy davlat sudlari tomonidan chiqarilgan hukmlarni tan olish va hisobga olish.

1. Shaxsga jazo tayinlash jarayonida, uning ilgari sodir etgan jinoyatlari bo'yicha O'zbekiston Respublikasining xalqaro shartnomalarida belgilangan qoidalarga muvofiq xorijiy davlat sudi tomonidan chiqarilgan hukmlar tan olinadi va hisobga olinadi, agar ushbu qoidaga nisbatan O'zbekiston Respublikasining xalqaro shartnomalari bilan boshqacha tartib nazarda tutilmagan bo'lsa.

2. Xorijiy davlat sudi tomonidan chiqarilgan hukmlar to'g'risidagi ma'lumotlarni olish uchun, sud, prokuror, tergovchi yoki surishtiruvchi tomonidan yuborilgan so'rovning haqiqiylikni aniqlash imkonini beruvchi himoyalangan telekommunikatsiya tarmoqlaridan foydalangan holda, elektron aloqa vositalari orqali, agar O'zbekiston Respublikasining xalqaro shartnomalarida boshqacha tartib nazarda tutilgan bo'lmasa tegishli xorijiy davlatning vakolatli organiga so'rov yuboradi.

3. O'zbekiston Respublikasi hududida qadimiy tarixiy meros obyektlari mavjudligini hisobga olib, O'zbekiston Respublikasi Jinoyat-protsessual kodeksining 615-moddasi 2-qismi 3-bandiga quyidagi o'zgartirish va qo'shimchalar kiritilishi lozim:

“3) xorijiy davlat sudining qarorini tan olish va ijroga qaratish O'zbekiston Respublikasining manfaatlariga, suverenitetiga yoki xavfsizligiga yoxud milliy, tarixiy va madaniy merosiga zarar yetkazishi mumkinligi haqida xulosaga kelsa, xorijiy davlat sudining qarorini tan olishni va ijroga qaratishni rad etish to'g'risida ajrim chiqaradi.”

4. O'zbekiston Respublikasida fuqarolik va iqtisodiy ishlar bo'yicha xorijiy davlat sudlari qarorlarini tan olish orqali ijro etish xususiyatiga ega bo'lgan qaror (hal qiluv)larni tan olish va ijro etish xalqaro shartnomalarga muvofiq vakolatli sudga iltimosnoma bilan murojaat qilganidan so'ng, umumiy tartibda (sud muhokamasi o'tkazish) amalga oshiriladi. Bunday turdagi sud qarorlari O'zbekiston Respublikasida tan olish va ijro etish maxsus tartib-tamoillarni o'tkazish orqali amalga oshiriladi. *Birinchi*dan - da'vogar tomonidan javobgarning yashash manzili joylashgan joydagi vakolatli sudga iltimosnoma bilan murojaat qiladi (fuqarolik

ishlari bo'yicha tumanlararo, tuman (shahar) sudlari (birinchi instansiya), iqtisodiy ishlar bo'yicha Qoraqalpog'iston Respublikasi sudi, viloyatlar va Toshkent shahar sudlari (ikkinchi instansiya)). *Ikkinchidan* - fuqarolik va iqtisodiy ishlari bo'yicha xorijiy davlat sudi tomonidan chiqarilgan qarorni tan olish va ijro etishda da'vogar tomonidan berilgan iltimosnoma vakolatli sud tomonidan xalqaro shartnomada belgilangan normalarga rioya etilganligini tekshiradi. *Uchinchidan* - xalqaro shartnomda belgilangan normalarga rioya etilganda O'zbekiston Respublikasining vakolatli sudi tomonidan xorijiy davlat sudi qarorini tan olish va ijro etish bo'yicha ajrim (ekzekvatura) chiqariladi. *To'rtinchidan* - taqdim qilingan iltimosnoma va unga ilova qilingan asoslar, agar davlat suvereniteti, xavfsizligi, jamoat tartibi yoki xalqaro shartnomalar va milliy qonunchilikda belgilangan protsessual asoslarga zid kelgan hollarda xorijiy davlat sudi qarorlarini tan olish va rad etish belgilangan.

5. O'zbekiston Respublikasi bolalar huquqlarini himoya qilishga qaratilgan Gaaga konvensiyasi ishtirokchisi ekanligi hamda Minsk konvensiyasining 52-modda va Kishinev konvensiyasining 55-moddasi belgilangan normalarning milliy qonunchilikka implementatsiyasini amalga oshirish maqsadida O'zbekiston Respublikasi Fuqarolik protsessual kodeksiga quyidagi o'zgartirish va qo'shimchalar kiritish lozim:

364¹-modda. Ijro etish talab qilinmaydigan chet davlat sudlari qarorlarini tan olish.

O'zbekiston Respublikasida chet el sudlarining o'z xususiyatiga ko'ra ijro etishni talab qilmaydigan quyidagi qarorlari tan olinadi:

- 1) Qarorni chiqargan davlat fuqarolarining huquqiy maqomiga taalluqli bo'lsa;
- 2) agar nikohdan ajratish vaqtida er-xotinning biri O'zbekiston Respublikasi hududidan tashqarida yashagan bo'lsa, O'zbekiston Respublikasi fuqarolari va chet el fuqarolari o'rtasidagi nikohni bekor qilish yoki haqiqiy emas deb topish to'g'risidagi;
- 3) agar nikohdan ajratish vaqtida er-xotinning ikkalasi ham O'zbekiston Respublikasi hududidan tashqarida yashagan bo'lsa, O'zbekiston Respublikasi fuqarolari o'rtasidagi nikohni bekor qilish yoki haqiqiy emas deb topish to'g'risidagi.

364²-modda. Noqonuniy olib ketilgan yoki ushlab turilgan bolalarni qaytarish bo'yicha chet davlat sud qarorlarini tan olish va ijro etish.

Chet davlat sudlarining noqonuniy olib ketilgan yoki ushlab turilgan bolalarni o'z vatanlariga qaytarish bo'yicha qarorlari tan olish va ijroga qaratish O'zbekiston Respublikasining tegishli xalqaro shartnomalari hamda qonunchiligida nazarda tutilgan bo'lsa, bunday hollarda O'zbekiston Respublikasi fuqarolik sudlari tomonidan tan olinadi va ijro etishga qaratiladi.

Noqonuniy olib ketilgan yoki ushlab turilgan bolalarni vataniga qaytarish bo'yicha xorijiy davlat sudlarining qarorlari O'zbekiston Respublikasida maxsus tartib-tamoillarni talab qilinmasdan quyidagi shartlar asosida tan olinadi va ijro etiladi:

- a) Qaror qonuniy kuchga kirgan bo'lishi;
- b) Qaror O'zbekiston Respublikasining suvereniteti, xavfsizligi, ommaviy tartib va bola manfaatlariga zid bo'lmasligi.

Sud ariza kelib tushgan kundan e'tiboran o'n kunlik muddatda ishni ko'rib chiqishi shart.

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TASHKENT STATE UNIVERSITY OF LAW

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**INTERNATIONAL LEGAL COOPERATION IN THE RECOGNITION
AND ENFORCEMENT OF JUDICIAL DECISIONS OF FOREIGN
STATES**

12.00.10 – International law

ABSTRACT

of the dissertation of the Doctor of Philosophy in Legal Sciences (PhD)

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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, as a result of the deepening processes of globalization, interstate relations concerning the recognition and enforcement of foreign court judgments are becoming increasingly important year by year. In particular, the 7th action of the “Pact for the Future” adopted by the UN General Assembly Resolution on September 24, 2024, states: “We will strengthen our efforts to build peaceful, just, and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable, and inclusive institutions at all levels, and uphold protect human rights and fundamental freedoms.”¹ This is also caused by a number of problems, such as the weakness of legal mechanisms for the recognition and enforcement of decisions made by criminal, civil, and economic courts of different states, as well as the diversity of national legal systems of states. This requires the improvement of international treaties on the recognition and enforcement of foreign court judgments, the strengthening of international legal cooperation, and the acceleration of the implementation processes into the national legislation of states.

Globally, special attention is being paid to scholarly research focused on improving international legal treaties on the recognition and enforcement of foreign court judgments, studying the causes of problems related to disparities in the national legal systems of different countries, and increasing the effectiveness of mechanisms regulating this field. In particular, certain results have been achieved in reconsidering the factors contributing to interstate problems in recognizing and enforcing foreign court judgments and in further improving international legal mechanisms based on the experience of advanced foreign countries. Nevertheless, a range of issues in interstate relations concerning the recognition and enforcement of foreign court judgments—such as the norms recorded in international treaties not meeting the demands of the present day, the lack of sufficient mutual trust in relations between states, and differences in the national legislation of states—necessitates a comprehensive study of theoretical, practical, and legal matters, the identification of existing problems in the system, and the development of solutions for them.

In order to effectively implement relations in the field of recognition and enforcement of foreign court judgments in our country, the Republic of Uzbekistan has ratified a number of international documents. This has served to implement international legal-cooperation in the recognition and enforcement of judgments made by the criminal, civil, and economic courts of foreign states, to uniformly apply the norms established in international treaties, and to strengthen the legal protection mechanism of court judgments. In the words of the President of the Republic of Uzbekistan, Sh.M. Mirziyoyev: “The main task of the courts is to establish justice. To do this, the court must issue a lawful, well-founded, and just decision in every

¹ Resolution A/RES/79/1 adopted by the General Assembly on 22 September 2024 The Pact for the Future // [Elektron resurs]: <https://documents.un.org/doc/undoc/gen/n24/272/22/pdf/n2427222.pdf>

case.”² Furthermore, proceeding from the tasks set forth in the Resolution of the President of the Republic of Uzbekistan No. RP-4895 of 17 November 2020, “On measures for the implementation of the provisions of the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters of 22 January 1993 and 7 October 2002”, necessitate the study of issues related to implementing the norms from international legal cooperation agreements on the recognition and enforcement of foreign court judgments into national legislation. This should be done taking into account the characteristics of universal, regional, and bilateral international treaties regulating state cooperation, the foundations for regulating state cooperation, and their specific features.

This dissertation research serves to implement the tasks defined in the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20 December, 1988; the United Nations Convention against Transnational Organized Crime of 15 November, 2000; as well as the Criminal Procedure Code, the Civil Procedure Code, and the Economic Procedure Code of the Republic of Uzbekistan. Furthermore, it contributes to the implementation of the Decree of the President of the Republic of Uzbekistan No. DP-60 of 28 January, 2022, “On the Development Strategy of New Uzbekistan for 2022-2026”; the Resolution No. RP-4895 of 17 November, 2020, “On measures for the implementation of the provisions of the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters of 22 January 1993 and 7 October 2002” and other normative-legal acts related to the field.

The dependence of the research on the priority areas of development of science and technologies in the country. Dissertation research was carried out in accordance with the priority direction of the republic’s science and technology development I. “Formation of a system of innovative ideas and ways of their implementation in the social, legal, economic, cultural, spiritual-educational development of the information-oriented society and the democratic state”.

The extent to which the problem has been studied. Certain aspects of international legal cooperation related to this research particularly the application of international legal norms by courts, their incorporation into national legislation and regulatory frameworks, as well as the implementation of fair justice have been studied by national legal scholars, A.Saidov, I.Rustambekov, G.Yuldasheva, Kh.Tursunov, O.Sulaymonov, D.Umarkhanova, M.Raximova, D.Egamberdiyev, O.Saidov, F.Fayziyev, A.Mansurov, J.Allayorov, A.Suleymanova, Sh.Jo‘ldasova and others.

Additionally, within the framework of scientific research on issues related to the topic, the practical aspects of the application of international legal norms in the courts of the Republic of Uzbekistan have been examined, in particular, in the candidate dissertation of Kh.Tursunov.

In her doctoral dissertation, D.Umarkhanova explored the implementation of international legal norms into the national legal system in the context of recognizing

² O‘zbekiston Respublikasi Prezidenti Shavkat Mirziyoyevning Oliy Majlisga Murojaatnomasi 22.12.2017 y. // [Elektron resurs]: <https://president.uz/oz/lists/view/1371>

foreign court judgments related to the continuation of the sentence execution process for individuals convicted of criminal offenses, as one of the areas of international cooperation in criminal matters.

O.Saidov, in his scholarly work, discussed the recognition of foreign court judgments within the scope of improving the organizational and legal aspects of the prisoner transfer institution.

Within the CIS (Commonwealth of Independent States), the concepts of recognition and enforcement of foreign court judgments, as well as their relation to international legal cooperation, have been studied by scholars such as T.Khabrieva, L.Lunts, I.Engelman, N.Marisheva, P.Yevseyev, D.Averin, M.Boguslavskiy, V.Trekhov, M.Aminov, S.Sorokina, A.Urusov, O.Panyushkina, M.Pelenitsina, A.Novoseltsev, D.Kulikova, A.Shukin, A.Muranov, T.Yablochkov, L.Anufrieva, and others.

Among foreign scholars, researchers such as P.Barnett, J.Hill, R.Brand, G.Born, P.Herzog, H.Batiffol, I.Bluntschli, K.Lenaerts, Albert Jan van den Berg, S.Tesfay, D.Jitta, K.Kessedjian, H.Schack, M.Wolff, Nadia de Araujo, Marcelo De Nardi, E.Lussen-Petraska, P.Mayer, and others³ have emphasized in their research the necessity of legally regulating interstate relations in the process of recognizing and enforcing foreign court judgments.

However, though the works of the aforementioned scholars have primarily focused on improving certain theoretical and practical aspects of international legal-cooperation in the field of mutual legal assistance in criminal matters between states, they have not approached the issues related to international legal cooperation in the recognition and enforcement of foreign court judgments thorough comprehensive research. Therefore, conducting a comprehensive study of this issue is considered relevant. From the perspective of international law as a scientific discipline, this highlights the necessity of examining, analyzing, and improving the implementation of international treaties in this area.

The connection of the dissertation research with the plans of scientific research work of the higher educational institution where the dissertation was completed. The dissertation research is aligned with the scientific-research agenda of the higher education institution where it was undertaken. The topic of dissertation was carried out within the framework of the Tashkent State University of Law's scientific research plan.

The purpose of the study is to study issues of international legal cooperation on the recognition and enforcement of foreign court judgments, to identify existing problems and legal gaps in this field, and also to develop scientific and practical proposals, recommendations, and conclusions aimed at improving international legal cooperation.

Research objectives:

analysis the concept and substance of recognition and enforcement of foreign court judgments;

³ These and other sources are listed in the bibliography of the dissertation.

study of the stages of international relations development concerning the recognition and enforcement of court decisions;

explore the specific characteristics of the principles governing the recognition and enforcement of court decisions between states;

analyse universal international treaties on the recognition and enforcement of court decisions;

explore issues of interstate cooperation in recognizing and enforcing court decisions within the framework of regional agreements;

examine the legal regulation of recognition and enforcement of court decisions within the framework of bilateral treaties between states;

conduct a comparative legal analysis of international cooperation norms concerning the recognition and enforcement of decisions issued by foreign criminal, civil, and economic courts;

develop proposals and recommendations for the implementation of international treaty norms on the recognition and enforcement of foreign court judgments into national legislation;

formulate practical and theoretical recommendations aimed at improving the legislation and law enforcement practice of the Republic of Uzbekistan.

The object of the research is the system of international legal relations that arises from the recognition and enforcement of foreign court judgments.

The subject of the research consists of universal, regional, and bilateral international legal instruments regulating international legal cooperation in the recognition and enforcement of foreign court judgments, as well as relevant national and foreign normative legal acts, law enforcement practice, and scholarly theoretical views and approaches.

Research methods. The research utilized methods as historical-legal, logical, sociological (survey within the scope of the topic), induction, deduction, legal-technical, comparative-legal, comprehensive research of scientific sources and analysis of statistical data.

Scientific novelty of the research consists of the following:

Due to the necessity of improving the legal mechanism for the uniform application by national courts of norms set in international treaties on the recognition and enforcement of foreign court judgments, it is justified that the court decision of a foreign state can be recognized and enforced in the Republic of Uzbekistan when a citizen of the Republic of Uzbekistan, who has been sentenced to imprisonment and is serving their sentence in that foreign state, is transferred to continue serving the sentence in the Republic of Uzbekistan;

it is justified that for the continued sentence enforcement, a foreign citizen sentenced to imprisonment by the court of the Republic of Uzbekistan may be transferred to their state of nationality, or conversely, a citizen of the Republic of Uzbekistan sentenced by a foreign court may be received from abroad;

it is justified that, in accordance with international treaties, the term of punishment for a convict transferred by a foreign state should be calculated proportionally to the term imposed by the judgment of the foreign court;

it is justified that if it comes to the conclusion that the recognition and enforcement of a foreign court judgment may harm the interests, sovereignty, or security of the Republic of Uzbekistan, the national court must issue a ruling to refuse to recognize and enforce such a decision.

Practical results of the research is as follows:

it is substantiated that, substantiates the need to adopt a model treaty under the auspices of the United Nations, within the framework of its conventions such as the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the UN Convention against Transnational Organized Crime, and the UN Convention against Corruption, in order to further improve international legal-cooperation in the enforcement of foreign court judgments;

it is substantiated that, within the framework of international treaties under the UN related to the fight against transnational crime, national interests of states especially those involving the protection of historical and cultural heritage should be considered as legitimate grounds for refusal to recognize and enforce foreign court judgments;

it is substantiated that, the necessity of incorporating a simplified procedure for the recognition and enforcement of foreign court judgments into the Minsk and Chisinau Conventions on Legal Assistance within the CIS framework has been substantiated;

it is substantiated that, the Republic of Uzbekistan is currently a party only to regional treaties adopted within the CIS, which are limited in scope. Therefore, it is justified that Uzbekistan should accede to the Hague Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters;

it is substantiated that, the necessity of introducing electronic information exchange systems to ensure effective fulfillment of obligations stipulated in multilateral and bilateral international treaties;

it is substantiated that, to amend the Criminal Procedure Code of the Republic of Uzbekistan to allow for the recognition and enforcement of foreign criminal court judgments related to non-custodial sanctions such as fines, confiscation of proceeds of crime or property while also, taking into account Uzbekistan's participation in the Hague Convention on the Civil Aspects of International Child Abduction, introducing simplified procedures into national legislation for the recognition and enforcement of foreign court judgments concerning the protection of children's rights;

it is scientifically and theoretically substantiated that, the necessity of making additions and amendments to the Criminal and Civil Procedure Codes of the Republic of Uzbekistan to regulate court judgments issued by competent courts of foreign states, which are not subject to enforcement upon recognition.

Reliability of research results. The research results have been summarized and formalized with relevant documents based on the analysis of international and national law, the experience of developed countries, law enforcement practices, and statistical data. The conclusions, proposals, and recommendations have undergone approbation, and their results have been published in leading national and foreign publications.

Scientific and practical significance of the research results. The scientific conclusions developed as a result of this research can be utilized in academic and research activities, particularly for enriching the theoretical foundations of such disciplines as Public International Law, International Criminal Law, Criminal Procedure Law, Civil Procedure Law, and Economic Procedure Law. They may also be applied in conducting practical training sessions and in the preparation of educational and methodological materials.

The practical significance of the research lies in the fact that the scientific principles, conclusions, and recommendations formulated in the study contribute to enhancing the effectiveness of the recognition and enforcement of foreign court judgments and to promoting international legal-cooperation between competent judicial authorities. They may also be used in the process of drafting and adopting legislative acts.

Implementation of research results. Based on the scientific results of international legal cooperation on the recognition and enforcement of foreign court judgments:

The proposal that the decision of a court of a foreign state may be recognized and enforced in the Republic of Uzbekistan when a citizen of the Republic of Uzbekistan sentenced to imprisonment and serving a sentence in a foreign state is accepted to continue serving the sentence in the Republic of Uzbekistan was used in the preparation of paragraph 3 of Article 1 (paragraph 1 of the first part of Article 610 of the Criminal Procedure Code) of the Law of the Republic of Uzbekistan dated December 4, 2024 No. LRU-1009 “On Introducing Amendments and Additions to the Criminal Procedure Code of the Republic of Uzbekistan” (Act of the Institute of Parliamentary Research under the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan dated May 14, 2025 No. 9/dn-100). The implementation of this proposal allows for the continuation of the remaining part of the sentence imposed by a court of a foreign state in the Republic of Uzbekistan in order to protect the rights and interests of citizens;

the proposal that a foreign citizen sentenced to imprisonment by a court of the Republic of Uzbekistan may be transferred to their country of citizenship, or that a citizen of the Republic of Uzbekistan sentenced to imprisonment by a foreign court may be accepted from a foreign state to continue serving their sentence, was used in the preparation of paragraph 3 of Article 1 (paragraph 1 of the first part of Article 611 of the Criminal Procedure Code) of the Law of the Republic of Uzbekistan dated December 4, 2024 No. LRU-1009 “On Introducing Amendments and Additions to the Criminal Procedure Code of the Republic of Uzbekistan” (Act of the Institute of Parliamentary Research under the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan dated May 14, 2025 No. 9/dn-100). The implementation of this proposal has served to establish a legal mechanism for individuals to continue serving sentences imposed by foreign courts in their home country.

the proposal that the term of punishment for a convicted person, transferred by a foreign state in accordance with international treaties to serve a sentence, be calculated proportionally to the term assigned by the foreign court’s judgment. This was used in the preparation of paragraph 3 of Article 1 of the Law of the Republic of Uzbekistan No. LRU-1009 of December 4, 2024, “On Introducing Amendments

and Additions to the Criminal Procedure Code of the Republic of Uzbekistan” (the first part of Article 614 of the Criminal Procedure Code) (Act No. 9/dn-100 of the Institute for Parliamentary Studies under the Legislative Chamber of the Oliy Majlis, dated May 14, 2025). The implementation of this proposal served to form the necessary legal foundations for ensuring the continued serving of a sentence in accordance with the principles of justice and fairness during the process of recognizing and enforcing the judgment (decision) rendered by a foreign court regarding a convicted person transferred from a foreign state to Uzbekistan based on international treaties;

the proposal that if the recognition and enforcement of a foreign court’s decision may harm the interests, sovereignty, or security of the Republic of Uzbekistan, the court shall issue a ruling to refuse the recognition and enforcement of the foreign court’s decision. This was used in the preparation of paragraph 3 of Article 1 of the Law of the Republic of Uzbekistan No. LRU-1009 of December 4, 2024, “On Introducing Amendments and Additions to the Criminal Procedure Code of the Republic of Uzbekistan” (paragraph 3 of the second part of Article 615 of the Criminal Procedure Code) (Act No. 9/dn-100 of the Institute for Parliamentary Studies under the Legislative Chamber of the Oliy Majlis, dated May 14, 2025), according to the same legislative and institutional sources. The implementation of this proposal served to enhance the effectiveness of protecting the national interests of the Republic of Uzbekistan when recognizing and enforcing a judgment (decision) rendered by a foreign court in criminal cases.

Approbation of research results. The results of the research were discussed at 5 scientific and practical conferences, including 3 international and 2 national scientific and practical conferences.

Publication of research results. A total of 15 scientific works have been published on the topic of the dissertation, including 10 scientific articles published in journals recommended by the Higher Attestation Commission under the Ministry of Higher Education, Science and Innovation of the Republic of Uzbekistan for the publication of the main results of doctoral dissertations (3 of which were published in foreign journals).

The structure and volume of the dissertation. The dissertation consists of an introduction, three chapters, including nine paragraphs, a conclusion, a list of references, and appendices. The volume of the dissertation is 152 pages.

MAIN CONTENT OF THE DISSERTATION

In the introduction of the dissertation, the relevance and necessity of the research topic, its alignment with the main priority areas of development of science and technology in the Republic, the degree of study of the problem, the correlation of the dissertation topic with the scientific research plans of the higher education institution where the dissertation is being carried out, the objectives and tasks of the research, its object and subject, methods, scientific novelty and practical outcomes of the research, the reliability of the results, their scientific and practical significance, implementation, approbation of the findings, publication of the results, as well as the volume and structure of the dissertation are elaborated.

In the first chapter of the dissertation, entitled “**Theoretical and Legal Foundations of the Recognition and Enforcement of Foreign court judgments in International Law**”, the concept of recognition and enforcement of foreign court judgments, the formation and development of international legal-cooperation in this field, as well as the distinctive features of the principles governing the recognition and enforcement of court decisions between states are highlighted.

In particular, the first section, entitled “*The concept of recognition and enforcement of foreign court judgments,*” analyzes the essence, characteristics, and interrelation of the concepts of “recognition” and “enforcement.” The author examines academic literature and the approaches of foreign scholars, presenting the main theoretical concepts associated with the recognition and enforcement of foreign court judgments.

The dissertation author emphasizes that the recognition of foreign court judgments as final legal rulings issued by a judicial authority by other branches of power without reservation and with full enforceability is a fundamental condition for ensuring the rule of law. In this context, the issue of recognizing and enforcing court decisions in the territory of another state remains a pressing matter.

The author reviews several significant scholarly approaches to the concept of recognition and enforcement of foreign court judgments. According to L.Lunts, the recognition of a foreign court judgment consists in granting it an exclusive legal status. L.Anufrieva emphasized that recognition of a foreign court judgment is a necessary condition for its execution and that although the concepts of “recognition” and “enforcement” of foreign court judgments are very close, they are legally distinct.

The author notes that, in international practice, recognition and enforcement of court judgments can be categorized as follows: firstly, judgments that are recognized without requiring enforcement, and secondly, judgments that are enforced as a consequence of their recognition.

The second section of chapter one, titled “*Formation and development of international cooperation in the recognition and enforcement of court judgments,*” analyzes the historical stages of the development of international legal-cooperation in this area.

According to the dissertation author, the evolution of international legal-cooperation in the recognition and enforcement of foreign court judgments within interstate relations encompasses several historical stages. The first stage (XVI-XVII the centuries) as a result of the developing cross-border relations in European countries, created the need for the legal regulation of international relations. While U.Huber emphasized the importance of state sovereignty, H.Grotius argued that relations between states and peoples must be regulated through international law.

The second stage (from the XVII the century to the early XX the century) witnessed the development of the principle of comitas gentium (international comity) in Anglo-Saxon legal systems, under which foreign court judgments were recognized and enforced. The increasing complexity of interstate relations at this stage led to the necessity of recognizing and enforcing judgments in civil law matters across jurisdictions.

The third stage (from the mid XX the century to the present) has been characterized by the advancement of modern international law, the emergence of peremptory norms aimed at the protection of human rights, and the adoption of a number of multilateral treaties to harmonize national legal systems in order to facilitate international legal-cooperation in the recognition and enforcement of foreign court judgments.

The author provides a detailed analysis of the stages of international legal-cooperation in recognizing and enforcing foreign court judgments and highlights the impact of international treaties on the convergence of national judicial and legal systems in this field.

The third section of chapter one, titled *“Distinctive features of the principles governing the recognition and enforcement of court judgments between States,”* analyzes the international legal principles applied in the recognition and enforcement of foreign court judgments. The author classifies these governing principles into several groups: imperative principles (the principle of sovereign equality of states and the principle of international cooperation); sectoral principles (interconnection of judicial proceedings and res judicata); discretionary principles (the principle of reciprocity).

From the perspective of the principle of sovereign equality of states, the author explores issues related to the preservation of state sovereignty and the obligation to respect the legal systems of other states. Within the framework of the principle of international cooperation, the author analyzes the obligations of states to provide mutual legal assistance.

Particular attention is devoted to the principle of reciprocity. The author notes that the application of reciprocity varies across different legal systems: in Anglo-Saxon legal systems, the principle of reciprocity is applied when the foreign court judgment originates from a legal system that ensures fair judicial proceedings; in Romano-Germanic legal systems, reciprocity is emphasized in the absence of treaties regulating such matters between states; however, these systems often require that the principle of reciprocity be formalized in written form as an element of the treaty.

The author also elaborates on the essence of the res judicata principle, emphasizing that it guarantees the finality of court decisions and ensures that a claim based on the same grounds is not litigated more than once.

The second chapter of the dissertation, titled **“Legal foundations of international cooperation in the recognition and enforcement of foreign court judgments,”** analyzes the universal international treaties regulating inter-state cooperation in the recognition and enforcement of court judgments, the legal bases for regulating interstate cooperation within the framework of regional agreements, and the distinctive features of bilateral treaties.

The first section of chapter two, titled *“Overview of universal international treaties regulating state cooperation in the recognition and enforcement of court judgments,”* analyzes universal international treaties related to the recognition and enforcement of foreign court judgments.

In examining the foundations for recognizing and enforcing foreign court judgments at the universal level, the author classifies these treaties based on their

subject matter into those governing relations in criminal, civil, and commercial (economic) matters.

Within the scope of universal treaties on criminal matters, the author analyzes the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the UN Convention against Transnational Organized Crime, and the UN Convention against Corruption. These conventions are studied in terms of the mechanisms they establish for recognizing and enforcing foreign court judgments related to the confiscation of assets obtained through criminal activity.

Within the framework of universal civil treaties, particular attention is paid to the Hague Convention on the Civil Aspects of International Child Abduction. This convention is aimed at creating an international legal mechanism for returning children who have been illegally removed or retained in a foreign country to their permanent residence.

As for commercial matters, the author analyzes the 1958 UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention). In addition, modern international instruments such as the Hague Convention on Choice of Court Agreements and the Hague Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters are also examined.

At the end of the paragraph, the author emphasizes the significance of universal international treaties as the legal foundation for cooperation in the recognition and enforcement of foreign court judgments.

The second section of chapter two, titled *“Legal foundations for regulating state cooperation in the recognition and enforcement of court judgments within the framework of regional treaties,”* analyzes the issues of recognition and enforcement of foreign court judgments among the member states of the Commonwealth of Independent States (CIS) within the scope of regional treaties.

The author examines regional treaties along three lines: criminal, economic, and civil matters.

In the area of criminal matters, the author analyzes the 1993 Minsk Convention and the 2002 Chisinau Convention. These conventions outline the mechanisms for the recognition and enforcement of foreign criminal judgments. In particular, the dissertation examines Article 109 of the Chisinau Convention, which provides that “a judgment issued by a court of a Contracting State shall be recognized and enforced unless the individual was not extradited for prosecution or enforcement of the sentence.” The study also reviews the Convention of 6 March 1998 “On the Transfer of Sentenced Persons for the Execution of Penal Sentences”, focusing on the transfer of convicted persons to serve their sentences in their home state.

With regard to economic matters, the key regional instrument analyzed is the 1992 Kyiv Agreement “On the Procedure for the Settlement of Disputes Related to Economic Activity.” The author thoroughly examines the provisions of Article 7, which outlines the grounds for recognition and enforcement of economic court decisions. The analysis also extends to relevant norms under the Chisinau Convention governing such matters.

In the field of civil matters, the Minsk and Chisinau Conventions are again examined for their role in regulating the recognition and enforcement of foreign

court judgments. The author provides an in-depth analysis of the procedures, criteria, and grounds for refusal established under these conventions.

As a result of the analysis of regional treaties, the author identifies the strengths and weaknesses of the mechanisms for recognizing and enforcing foreign court judgments. Drawing from the experience of the European Union, the dissertation also reviews cooperation mechanisms such as the European Judicial Network.

The third section of chapter two, titled “*Specific Features of Bilateral Treaties of the Republic of Uzbekistan on the Recognition and Enforcement of Court Judgments*,” analyzes how the issues of recognizing and enforcing foreign court judgments are regulated in bilateral treaties concluded by the Republic of Uzbekistan with various states.

The author examines Uzbekistan’s bilateral treaties in three main areas: criminal, economic, and civil matters.

Regarding criminal matters, the recognition and enforcement of foreign court judgments are analyzed within two categories of treaties: 1) treaties regulating the transfer of sentenced persons to continue serving their sentences; 2) treaties on legal assistance and legal relations.

The rules governing the recognition and enforcement of foreign court decisions in civil and economic matters have been analyzed based on the treaties concluded by the Republic of Uzbekistan with Kazakhstan, Kyrgyzstan, Turkmenistan, the People’s Republic of China, the Republic of Korea, Georgia, Latvia, Lithuania, Turkey, and the Czech Republic. Furthermore, a comparative legal analysis has been conducted regarding the common and distinctive features of these treaties, including aspects such as their scope (specific or comprehensive), grounds for refusal, and procedures for recognition.

The third chapter of the dissertation, titled “**Issues of implementing international treaties on international legal cooperation in the recognition and enforcement of foreign court judgments into national legislation,**” analyzes the implementation of international treaties concerning international legal cooperation in the recognition and enforcement of foreign court judgments in criminal, civil, and economic matters into the legislation of the Republic of Uzbekistan.

The first section of chapter three, titled “*Implementation of international treaties on international legal cooperation in the recognition and enforcement of foreign court judgments in criminal matters into the legislation of the Republic of Uzbekistan*,” analyzes the incorporation of international legal cooperation norms in criminal matters into Uzbekistan’s national legislation.

The author analyzes the implementation of norms established in international treaties into national legislation and outlines the stages and procedures for the recognition and enforcement of foreign criminal court judgments within the legal framework of the Republic of Uzbekistan.

The dissertation identifies that the process of recognizing and enforcing a foreign criminal judgment consists of four stages. The author emphasizes that criminal courts must verify the compatibility of the sentence imposed in the foreign court judgment based on foreign law with the norms of national legislation, as well as ensure compliance with the conditions set forth in the relevant international treaties.

The author further argues that the Criminal Procedure Code of the Republic of Uzbekistan needs to be expanded with respect to the regulation of the recognition and enforcement of foreign criminal court judgments particularly by fully implementing provisions relating to non-custodial sanctions such as fines, confiscation of proceeds of crime, or property acquired through criminal means.

The second section of chapter three, titled *“Regulation of the implementation of international treaties on international legal cooperation in the recognition and enforcement of foreign court judgments in civil matters within the national legislation of the Republic of Uzbekistan,”* analyzes the reflection of international legal cooperation norms in civil matters within Uzbekistan’s national legislation.

The author emphasizes that Article 24 of the Constitution of the Republic of Uzbekistan, which states that “Foreign citizens and stateless persons, during their stay on the territory of the Republic of Uzbekistan, shall be guaranteed the rights and freedoms in accordance with the norms of the international law,” as well as Article 1158, Part 1 of the Civil Code, which stipulates that legal relations involving a foreign element shall be governed based on international treaties and recognized international customs, constitute an important legal foundation for international legal cooperation.

According to the author, in Uzbekistan, the recognition and enforcement of foreign civil court decisions are carried out on the basis of international treaties. In particular, Uzbekistan participates in interstate international legal-cooperation concerning the recognition and enforcement of 3 types of judgments (or rulings) that are subject to enforcement through recognition. A defining feature of such decisions is that they are issued following a court hearing.

The author also analyzes Uzbekistan’s international legal-cooperation aimed at protecting children’s rights and notes that, despite being a party to the Hague Convention on the Civil Aspects of International Child Abduction, the national legislation of Uzbekistan does not provide for specific procedures to recognize and enforce foreign court decisions on the return of unlawfully removed or retained children without the need for additional judicial proceedings.

The third section of Chapter Three, titled *“Harmonization of international treaties on legal cooperation in the recognition and enforcement of foreign court judgments in economic matters with the national legislation of the Republic of Uzbekistan,”* analyzes the reflection of international legal cooperation norms related to the recognition and enforcement of foreign court judgments in economic cases within Uzbekistan’s national legislation.

The author examines the mechanisms for recognizing and enforcing foreign court judgments in economic matters in the Republic of Uzbekistan and studies the practical application of the norms established by international treaties and domestic law.

The author emphasizes that Article 248, paragraph 1 of the Economic Procedural Code of the Republic of Uzbekistan provides that if there are relevant international treaties, decisions rendered by foreign courts in economic disputes shall be recognized and enforced in accordance with national legislation, thus affirming the primacy of international treaties in this area.

According to the author, under Uzbekistan’s economic procedural legislation,

applications for the recognition of foreign court or arbitral decisions in economic matters are reviewed in open court hearings within 6 months. In particular, unlike in civil and criminal cases, the researcher emphasizes that such cases in economic matters are reviewed by the courts of the Republic of Karakalpakstan, regional courts, and the Tashkent city court at the second instance level.

The author analyzes examines Resolution No. 27 of the Plenum of the Supreme Court of the Republic of Uzbekistan, dated 20 November 2023, “On Certain Issues of the Application of Legislation by Economic Courts in Cases Involving Foreign Persons,” and explores the importance of establishing consistent judicial practice in recognizing and enforcing foreign economic court decisions.

To improve international legal-cooperation in economic matters, the author proposes enabling direct communication between Uzbekistan’s economic courts and foreign courts and advocates for the use of modern digital technologies.

The author notes that, as of 2024, the courts of the Republic of Uzbekistan have received 52 requests concerning criminal cases, 85 concerning civil cases, and 29 concerning economic cases for the recognition and enforcement of foreign court judgments. The author also puts forward practical proposals for addressing the challenges in this area, including the implementation of norms established in international treaties into national legislation, the unification of judicial practice, and the improvement of international legal-cooperation mechanisms.

CONCLUSION

As a result of this scientific research, which is dedicated to the study and analysis of international legal cooperation in the recognition and enforcement of foreign court judgments, the following theoretical conclusions, as well as proposals and recommendations for the improvement of legislation, have been developed.

I. Scientific - theoretical conclusions:

1. Although various opinions have been expressed on the recognition and enforcement of foreign court judgments within the framework of legal cooperation between states, however there is no unified definition is provided The author proposes the following original definition:

“Recognition and enforcement of foreign court judgments” means the granting of the same legal force as the judgment of domestic courts of the recognizing state that has entered into legal force. This means that the judgment must produce legal consequences beyond the state in which it was issued and must be enforced in accordance with the applicable procedures.

Recognition of a foreign court judgment means equating a judgment that has entered into legal force in a foreign state with a judgment issued by the domestic courts of the recognizing state in similar types of legal relations.

Enforcement of a foreign court judgment means that such a judgment is subject to enforcement under the same procedure as domestic judgments of the recognizing state’s courts, provided that the conditions established by international treaties are met.”

2. Based on the nature of foreign court judgments, the author classifies them into two categories:

Judgments recognized without requiring enforcement – these are typically decisions determining the legal status of individuals.

Judgments requiring enforcement upon recognition – the implementation by a state in its territory of a mandatory mechanism for the execution of a decision in accordance with national legislation, subject to the conditions established by international treaties, through the recognition of such judgments.

3. Taking into account differences in national legal systems and legislation, decisions subject to international legal-cooperation in recognition and enforcement must possess a specific legal characteristic. The author defines this as: *a court judgment adopted after a court hearing on the dispute and entering into legal force.*

4. The genesis of international legal cooperation in the recognition and enforcement of foreign court judgments can be divided into the following historical periods:

First period (XVI – XVII the centuries): This stage is marked by the emergence of the concept of state sovereignty and the development of approaches advocating that relations between peoples should be regulated by international law.

Second period (from the XVII the century to the early XX the century): As a result of the development of international relations between states, there is a need to recognize and enforce judgments arising from civil-law disputes. Consequently, states began to regulate the established relations through bilateral international treaties.

Third period (from the mid XX the century to the present): The beginning of global integration processes and the signing of multilateral and bilateral international treaties by states to protect the rights of their citizens. These developments directly contributed to the modernization of national judicial systems and the incorporation of international standards for the recognition and enforcement of foreign court judgments into domestic legislation. As a result, states have established procedures within their national legal systems for recognizing and enforcing foreign court judgments.

5. The principles governing interstate cooperation in the recognition and enforcement of foreign court judgments can be classified as follows:

a) Discretionary principle (principle of reciprocity): The principle of reciprocity is based on the doctrine of *comitas gentium* (international comity) and implies that rights recognized in one state should also be recognized in another. This principle is applied through judicial precedent in Anglo-Saxon legal systems, while in Romano-Germanic legal systems it is codified in written form.

b) Imperative principles (principle of sovereign equality of states and principle of international cooperation): Since the protection of human rights is the responsibility of every state, the recognizing state without relinquishing its territorial sovereignty undertakes the recognition and enforcement of foreign court judgments voluntarily, based on the principle of international legal-cooperation.

c) Sectoral principles (interconnection of judicial proceedings and *res judicata*): The recognition by one state's court of a decision issued by the court of another state implies that the norms established by that decision must be enforced. Moreover, in recognizing and enforcing foreign judgments, states adhering to international standards ensure the clarity, credibility, and finality of decisions rendered by each

other's judicial authorities.

6. Although universal and regional treaties, including the Minsk and Chisinau Conventions on mutual legal assistance in civil, economic, family, and criminal matters, as well as the Kyiv Agreement on commercial disputes, contain provisions on the recognition and enforcement of foreign court judgments, these treaties differ in nature and scope.

First, by their nature, these international treaties are considered closed-type agreements.

Second, the Kyiv Agreement applies exclusively to the mutual recognition and enforcement of judgments on commercial disputes among CIS member states. This agreement incorporates special provisions (*lex specialis derogat legi generali*) that regulate the recognition and enforcement of foreign judgments in commercial matters.

Third, the Minsk and Chisinau Conventions established provisions on the division of foreign judgments by their nature into such types as recognition of a court judgment without requiring enforcement and enforcement of a court judgment with recognition. Based on the *res judicata* principle, these treaties stipulate that during the recognition and enforcement process, the recognizing state should assess not the substance of the judgment, but whether the procedural conditions set by the applicable international treaty have been met.

Fourth, unlike the Minsk Convention, the Chisinau Convention explicitly provides that the term "civil matters" also encompasses disputes related to economic activities.

II. Proposals and Recommendations for developing the Field of International Law

1. The UN Conventions against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, against Transnational Organized Crime, and against Corruption, as well as bilateral treaties on mutual legal assistance concluded between states, provide that foreign court decisions may be refused enforcement by the courts or competent authorities of the requested state if such enforcement would contradict that state's sovereignty, security, or public order.

However, these instruments do not take into account the potential use of objects of historical or cultural heritage as tools in the commission of transnational crimes (e.g., as reflected in the experience of the Republic of Azerbaijan). Taking into consideration the presence of ancient cultural and historical heritage sites on the territory of each state, the current grounds for refusal established in the aforementioned conventions do not fully correspond to the protection of states' interests.

Therefore, it is proposed to supplement the list of grounds for refusal within the framework of these conventions with a new provision: "in cases where it is considered that damage may be caused to historical and cultural heritage"

Based on the above:

1) It is proposed to introduce the following amendment and additions to subparagraph (b) of paragraph 15 of Article 7 of the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances: "if the requested Party

considers that the execution of the request is likely to prejudice its sovereignty, security, public order, historical and cultural heritage, or other essential interests.”

2) It is proposed to introduce the following amendment and additions to subparagraph (b) of paragraph 21 of Article 18 of the UN Convention against Transnational Organized Crime: “if the requested State Party considers that the execution of the request is likely to prejudice its sovereignty, security, public order, historical and cultural heritage, or other vital interests.”

3) It is proposed to introduce the following amendment and additions to subparagraph (b) of paragraph 21 of Article 46 of the UN Convention against Corruption: “if the requested State Party considers that the execution of the request is likely to prejudice its sovereignty, security, public order, historical and cultural heritage, or other vital interests.”

2. The UN conventions on combating transnational crime define the recognition and enforcement of foreign court judgments among State Parties as a mechanism for fighting crime. In order to ensure the uniform application of the provisions established by these conventions, while taking into account differences in the national legislation of State Parties, it is proposed analogous to the UN’s existing model treaties on prisoner transfer, extradition, and mutual legal assistance in criminal justice to adopt a “UN Model Treaty on the Recognition and Enforcement of Foreign court judgments.” The adoption of such a treaty would contribute to enhancing the effectiveness of international legal-cooperation among states in recognizing and enforcing foreign court judgments.

It is recommended that the proposed “UN Model Treaty on the recognition and enforcement of foreign court judgments” be based on the following principles: the principle of sovereign equality of states, the principle of international legal-cooperation, the principle of reciprocity, the interconnection of judicial proceedings, and the *res judicata* principle.

These principles are considered essential for strengthening and improving the efficiency of international legal relations among states in this field.

3. Considering that the Hague Convention on the Civil Aspects of International Child Abduction is a universal international treaty, and that many of its State Parties are also members of the Minsk and Chisinau Conventions, it is advisable to introduce provisions on a simplified procedure for the recognition and enforcement of foreign court judgments related to the protection of children’s rights.

Article 51, paragraph 2 of the Minsk Convention states: “The provisions of paragraphs 2 and 3 of Article 53 of this Convention shall not apply to decisions concerning the return of children who have been illegally removed or retained.”

Similarly, Article 54, paragraph 3 of the Chisinau Convention provides: “The provisions of paragraphs 2 and 3 of Article 56 of this Convention shall not apply to decisions concerning the return of children who have been illegally removed or retained.”

In light of these limitations, and with the aim of ensuring more effective protection of children's rights, we consider it appropriate to introduce specific norms into the Minsk and Chisinau Conventions that would establish a simplified procedure for the recognition and enforcement of foreign court judgments concerning the return of children in cases of illegally removed or retention.

4. Although the recognition and enforcement of judgments issued by the competent courts of the Contracting Parties is acknowledged, there are currently no provisions for the use of telecommunications as a mechanism to facilitate this process. Therefore, it is advisable to supplement Article 6, paragraph 3 of the Chisinau Convention with the following provision: “The Contracting Parties may carry out procedural and other actions related to mutual legal assistance through the use of information and communication technologies. The Contracting Parties shall additionally establish rules regarding the confidentiality level applicable to the use of telecommunications.”

5. At present, the international legal instruments governing the recognition and enforcement of court decisions (namely the Minsk and Chisinau Conventions) do not fully meet the requirements of global trends. The provisions set forth in these instruments are often repetitive, and they fail to establish clear timeframes for responding to inter-state requests related to the recognition and enforcement of court decisions. Moreover, considering that these international instruments are of a closed nature:

It is proposed that the Republic of Uzbekistan accede to the Hague Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters. This, along with increasing public trust in the judiciary in our country, will serve to expand interstate cooperation, establish a simple and efficient system for the recognition and enforcement of foreign court judgments, and ensure the implementation the norms of international treaties into national legislation.

6. As per the the specific characteristics of the provisions defined in the Republic of Uzbekistan’s bilateral international treaties with other states on the recognition and enforcement of foreign court judgments within the scope of criminal, civil, and economic matters:

First, during the recognition and enforcement of foreign judgments, the courts of the recognizing state may, in accordance with their national legislation, re-determine the sentence in proportion to the original penalty imposed.

Second, in addition to a petition submitted by the convicted person or their legal representative, a written statement from the competent authority of the requesting state is required for the recognition and enforcement of the judgment. Moreover, in accordance with the repatriation principle, the court of the recognizing and enforcing state may, for the purpose of allowing its national to serve the remainder of their sentence in their home country, send a formal request to the sentencing state.

Third, the recognizing and enforcing state, based on the principle of humanity, retains the right to grant pardon or amnesty to the convicted person (see: Article 14 of the treaty with Azerbaijan, Article 14 of the treaty with Kazakhstan, Article 13 of the treaty with Ukraine, and Article 12 of the treaty with Georgia on the transfer of sentenced persons for continued execution of their punishment).

Fourth, the recognition and enforcement of criminal judgments is carried out without the participation of the parties (convicted persons), unlike in civil and economic matters.

Fifth, the difference between, the regional (the Kyiv Agreement, Minsk and Chisinau Conventions) and bilateral treaties on the recognition and enforcement of

foreign court judgments from universal treaties of the UN is that these treaties contain provisions regulating this process.

Sixth, according to the provisions of treaties on interstate legal assistance and relations, enforcement of the civil law component (e.g., compensation for damages) of a criminal judgment may also be carried out based on the nature of the judgment rendered by the criminal courts of the Contracting States.

Seventh, due to varying definitions of court decisions, regardless of the area of cooperation (family or commercial), the key criterion for mutual recognition and enforcement should be that the decision was rendered on behalf of the supreme authority of the state and that procedural rules ensuring fair trial standards were observed.

Based on the above, and taking into account the specific features of bilateral international treaties, it is proposed to establish a unified electronic information exchange system between the competent authorities of the Contracting States for the recognition and enforcement of foreign court judgments.

III. Proposals and Recommendations for the Improvement of National Legislation

1. In accordance with the provisions of the Criminal Procedure Code of the Republic of Uzbekistan, the process of recognizing and enforcing criminal judgments issued by foreign courts consists of four stages:

First stage – the convicted person or their legal representative submits an application to the General Prosecutor’s Office of the Republic of Uzbekistan.

Second stage – the General Prosecutor’s Office sends a request to the competent authority of the foreign state to obtain the documents and information specified in the application.

Third stage – after the request is satisfied by the competent authority of a foreign state, the General Prosecutor or their deputy submits a petition to the first-instance criminal court at the place of residence of the convicted person.

Fourth stage – in the process of reviewing the request by the court, it verifies the proportionality of the sentence imposed in the foreign judgment with the norms of national legislation and examines whether the conditions stipulated in applicable international treaties have been met.

In addition, the norms of international treaties to which the Republic of Uzbekistan is a party specifically regarding non-custodial sanctions, such as fines, confiscation of proceeds of crime, or property have not yet been fully implemented into national legislation for the recognition and enforcement of foreign criminal court judgments.

Based on the above, it is proposed to introduce the following amendment and additions to the Criminal Procedure Code of the Republic of Uzbekistan:

Amend Article 610 by adding a new paragraph 5 and restating paragraph 6 as follows:

“5) if the foreign court has imposed non-custodial penalties or ordered the confiscation of criminally acquired income or property;

6) in other cases as provided for by the international treaties of the Republic of Uzbekistan.”

Amend Article 613 by adding a new paragraph 6 as follows:

“In cases related to the recognition and enforcement of a judgment involving the confiscation of criminally acquired income or property, the matter shall be considered by the judge of the district (city) criminal court at the location of the property.”

2. The Criminal Procedure Code of the Republic of Uzbekistan does not establish norms on the recognition of sentences issued by criminal courts of foreign states that do not have the characteristic of enforcement through recognition. In particular, in each state, based on the maintenance of information about the person who committed the crime, when imposing punishment on a person, information obtained on the basis of a judgment of a foreign court may be taken into account as a mitigating or aggravating circumstance. In turn, the implementation of the provisions set forth in Article 76¹ of the Minsk Convention and Article 99 of the Chisinau Convention into the national legislation serves to ensure the realization of their legal effect. It is necessary to introduce the following amendments and additions to Article 610¹ of the Criminal Procedure Code.

Article 610¹. Recognition and recording of judgments rendered by foreign courts

1. In the process of imposing a sentence on a person, judgments rendered by a foreign court concerning crimes previously committed by that person shall be recognized and taken into account in accordance with the rules established by the international treaties of the Republic of Uzbekistan, unless otherwise provided by those treaties.

2. In order to obtain information regarding judgments rendered by a foreign court, a request shall be sent to the competent authority of the relevant foreign state through electronic communication channels using secure telecommunication networks that ensure the authenticity of the request submitted by the court, prosecutor, investigator, or inquiry officer, unless a different procedure is stipulated by the international treaties of the Republic of Uzbekistan.

3. Taking into account the presence of ancient historical heritage sites within the territory of the Republic of Uzbekistan, it is necessary to introduce the following amendment and additions to paragraph 3 of part 2 of Article 615 of the Criminal Procedure Code of the Republic of Uzbekistan:

“3) if it is concluded that the recognition and enforcement of a foreign court judgment may harm the interests, sovereignty, or security of the Republic of Uzbekistan, or its national, historical, or cultural heritage, the court shall issue a ruling to refuse the recognition and enforcement of the foreign court judgment.”

4. In the Republic of Uzbekistan, the recognition and enforcement of judgments (decisions) issued by foreign courts in civil and economic matters that are subject to enforcement through acknowledgment shall be carried out in accordance with international treaties, upon submission of a request to a competent court and through a general procedure (court hearing). The distinction lies in the fact that requests in civil cases are considered by courts of first instance, whereas requests in economic matters are reviewed by courts of second instance.

Such types of court decisions are recognized and enforced in the Republic of Uzbekistan through special procedural mechanisms. First, the claimant shall submit

a request to the competent court located in the district where the respondent resides (civil cases are handled by courts of first instance; economic cases by courts of second instance). Second, the competent court shall examine whether the judgment issued by a foreign court in civil or economic matters complies with the provisions of the applicable international treaty. Third, if the provisions of the international treaty are observed, the competent court of the Republic of Uzbekistan shall issue a ruling (exequatur) recognizing and enforcing the foreign judgment. Fourth, the request and its supporting documentation shall be subject to review, and recognition and enforcement may be refused if the foreign judgment contradicts the sovereignty, security, or public order of the Republic of Uzbekistan, or the procedural grounds established by international treaties and national legislation.

5. In order to ensure the full implementation into national legislation of the international standards established under Article 52 of the Minsk Convention and Article 55 of the Chisinau Convention, and taking into account that the Republic of Uzbekistan is a party to the Hague Convention aimed at protecting children's rights, it is necessary to introduce the following amendment and additions to the Civil Procedure Code of the Republic of Uzbekistan:

Article 364¹. Recognition of Foreign court judgments that are not subject to execution

The following judgments of foreign courts, which by their nature do not require enforcement, shall be recognized in the Republic of Uzbekistan:

1) if the judgment concerns the personal status of nationals of the state in which the judgment was issued;

2) judgments annulling or declaring invalid a marriage between a citizen of the Republic of Uzbekistan and a foreign citizen, where at the time of divorce one of the spouses resided outside the territory of the Republic of Uzbekistan;

3) judgments annulling or declaring invalid a marriage between citizens of the Republic of Uzbekistan, where at the time of divorce both spouses resided outside the territory of the Republic of Uzbekistan.

Article 364². Recognition and Enforcement of Foreign court judgments on the Return of Illegally Removed or Retained Children

Foreign court judgments concerning the return of illegally removed or retained children to their country of habitual residence shall be recognized and enforced by the civil courts of the Republic of Uzbekistan, provided such recognition and enforcement are stipulated by the relevant international treaties and the legislation of the Republic of Uzbekistan.

Such foreign court judgments shall be recognized and enforced in Uzbekistan without the need for a special procedure, under the following conditions:

a) the decision has entered into legal force;

b) the decision does not contradict the sovereignty, security, public order, or the best interests of the child as protected under the laws of the Republic of Uzbekistan.

The court shall review the case within ten days from the date of submission of the application.

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

**ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ ЮРИДИЧЕСКИЙ
УНИВЕРСИТЕТ**

ХАЛИКУЛОВ КОМОЛИДДИН НОСИРОВИЧ

**МЕЖДУНАРОДНО-ПРАВОВОЕ СОТРУДНИЧЕСТВО ПО
ПРИЗНАНИЮ И ИСПОЛНЕНИЮ СУДЕБНЫХ РЕШЕНИЙ
ИНОСТРАННЫХ ГОСУДАРСТВ**

12.00.10 – Международное право

**АВТОРЕФЕРАТ
диссертации доктора философии (PhD) по юридическим наукам**

Ташкент – 2025

Тема диссертации доктора философии (PhD) зарегистрирована Высшей аттестационной комиссией при Министерстве высшего образования, науки и инноваций Республики Узбекистан за № В2024.3.PhD/Yu1583.

Диссертация выполнена в Ташкентском государственном юридическом университете
Автореферат диссертации размещен на трех языках (узбекском, английском, русском (резюме)) на веб-странице научного совета (<https://tsul.uz/uz/fan/avtoreferatlar>) и Информационно-образовательном портале «ZiyoNet» (www.ziynet.uz)

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Защита диссертации состоится 29 сентября 2025 года в 11:00 часов 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.: +998 71 233-66-36; факс: + 998 71 233-37-48, e-mail: info@tsul.uz).

С диссертацией можно ознакомиться в Информационно-ресурсном центре Ташкентского государственного юридического университета (зарегистрирована за № 1424). (Адрес: 100047, г. Ташкент, ул. А.Темура, 13. Тел.: +998 71-233-66-36.

Автореферат диссертации разослан «15» сентября 2025 года.

(протокол реестра № 11 от «15» сентября 2025 года).



[Handwritten signatures in blue ink]

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Введение (аннотация к диссертации доктора философии (PhD))

Целью исследования являются изучение вопросов международно-правового сотрудничества в области признания и исполнения решений иностранных судов, выявление существующих проблем и правовых пробелов в этой сфере, а также разработка научных и практических предложений, рекомендаций и выводов, направленных на совершенствование международно-правового сотрудничества.

Объектом исследования является система международно-правовых отношений, возникающих в сфере признания и исполнения решений иностранных судов.

Научная новизна исследования заключается в следующем:

обоснована возможность принятия к отбыванию наказания на территории Республики Узбекистан гражданина Республики Узбекистан, осуждённого к лишению свободы и отбывающего наказание в иностранном государстве;

обоснована допустимость передачи иностранного гражданина, осуждённого судом Республики Узбекистан к лишению свободы, в государство его гражданской принадлежности для продолжения отбывания наказания, либо принятия из иностранного государства гражданина Республики Узбекистан, осуждённого иностранным судом к лишению свободы, для продолжения исполнения приговора в Узбекистане;

обоснована необходимость соотнесения срока наказания, отбываемого лицом, переданным по международному договору для дальнейшего отбывания наказания, со сроком, назначенным решением суда иностранного государства;

обоснована правовая позиция о том, что в случае, если признание и исполнение решения суда иностранного государства может нанести ущерб интересам, суверенитету или безопасности Республики Узбекистан, суд должен вынести определение об отказе в признании и исполнении такого судебного решения.

Внедрение результатов исследования. На основе проведённого научного исследования по вопросам международно-правового сотрудничества в сфере признания и исполнения решений иностранных судов:

предложение о принятии гражданина Республики Узбекистан, осуждённого и отбывающего в иностранном государстве наказание в виде лишения свободы, - для дальнейшего отбывания наказания в Республике Узбекистан, было использовано при подготовке пункта 3 статьи 1 Закона Республики Узбекистан от 4 декабря 2024 года № ЗРУ-1009 «О внесении дополнений и изменений в Уголовно-процессуальный кодекс Республики Узбекистан» (пункт 1 части первой статьи 610 Уголовно-процессуального кодекса) (Акт №9/dn-100 от 14 мая 2025 года Института парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан). Реализация данного предложения послужила цели защиты прав

и интересов гражданина и продолжению отбывания в Республике Узбекистан оставшейся части наказания, назначенного приговором иностранного суда;

предложение о иностранном гражданине, осужденном к лишению свободы судом Республики Узбекистан, может быть передан в государство его гражданской принадлежности или гражданин Республики Узбекистан, осужденный к лишению свободы судом иностранного государства, - принят от иностранного государства, для дальнейшего отбывания наказания, было использовано при подготовке пункта 3 статьи 1 Закона Республики Узбекистан от 4 декабря 2024 года № ЗРУ-1009 «О внесении дополнений и изменений в Уголовно-процессуальный кодекс Республики Узбекистан» (пункт 1 части первой статьи 611 Уголовно-процессуального кодекса) (Акт № 9/dn-100 от 14 мая 2025 года Института парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан). Реализация данного предложения послужила созданию правового механизма для продолжения отбывания на родине наказания, назначенного физическим лицам приговором иностранного суда;

предложение о сроке наказания осужденному, переданному иностранным государством в соответствии с международными договорами для отбывания наказания исчисляется пропорционально сроку, назначенному приговором суда иностранного государства, было использовано при подготовке пункта 3 статьи 1 Закона Республики Узбекистан от 4 декабря 2024 года № ЗРУ-1009 «О внесении дополнений и изменений в Уголовно-процессуальный кодекс Республики Узбекистан» (часть первая статьи 614 Уголовно-процессуального кодекса) (Акт № 9/dn-100 от 14 мая 2025 года Института парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан). Реализация данного предложения послужила формированию необходимых правовых основ для обеспечения продолжения отбывания наказания в соответствии с принципами справедливости и справедливого правосудия в процессе признания и исполнения приговора (решения), вынесенного судом иностранного государства в отношении осужденного, переданного из иностранного государства в Узбекистан на основании международных договоров;

предложение о признании и приведении в исполнение решения суда иностранного государства может нанести ущерб интересам, суверенитету или безопасности Республики Узбекистан, он выносит определение об отказе в признании и приведении в исполнение решения иностранного суда, было использовано при подготовке пункта 3 статьи 1 Закона Республики Узбекистан от 4 декабря 2024 года № ЗРУ-1009 «О внесении дополнений и изменений в Уголовно-процессуальный кодекс Республики Узбекистан» (пункт 3 части второй статьи 615 Уголовно-процессуального кодекса) (Акт № 9/dn-100 от 14 мая 2025 года Института парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан). Реализация данного предложения послужила повышению эффективности защиты национальных интересов Республики Узбекистан при признании и

исполнении приговора (решения), вынесенного судом иностранного государства по уголовным делам.

Структура и объем диссертации. Диссертация состоит из введения, трех глав, включающих девять параграфов, заключения, списка использованной литературы и приложений. Объем диссертации составляет 152 страницы.

E'LON QILINGAN ISHLAR RO'YXATI
LIST OF PUBLISHED WORKS
СПИСОК ОПУБЛИКОВАННЫХ РАБОТ

I bo'lim (I chast; I part)

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