TOSHKENT DAVLAT YURIDIK UNIVERSITETI HUZURIDAGI ILMIY DARAJALAR BERUVCHI DSc.07/30.12.2019.Yu.22.02 RAQAMLI ILMIY KENGASH

TOSHKENT DAVLAT YURIDIK UNIVERSITETI

YUSUPOV ILXOMJON IBODILLAYEVICH

HUQUQIY ANIQLIK PRINSIPI: NAZARIY-HUQUQIY MASALALAR

12.00.01. – Davlat va huquq nazariyasi va tarixi.
Huquqiy ta’limotlar tarixi

Yuridik fanlar bo‘yicha falsafa doktori (PhD) dissertatsiyasi AVTOREFERATI

Toshkent – 2025

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Falsafa doktori (PhD) dissertatsiyasi mavzusi O‘zbekiston Respublikasi Oliy ta’lim, fan va innovatsiyalar vazirligi huzuridagi Oliy attestatsiya komissiyasida B2023.2.PhD/Yu1020-raqam bilan ro‘yxatga olingan.

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KIRISH (DISSERTATSIYA ANNOTATSIYASI)

Dissertatsiya mavzusining dolzarbligi va zarurati. Dunyodagi rivojlangan huquqiy davlatlarda demokratik prinsiplar hamda umuminsoniy qadriyatlarni amalda tatbiq etish bo‘yicha salmoqli ishlar amalga oshirilmoqda. Xususan, yuridik amaliyotda huquqiy aniqlikni ta’minlash, inson huquqlarini himoya qilish hamda kafolatlash mexanizmi samaradorligini oshirishga keng e’tibor berilmoqda. BMT 2030-yilgacha erishilishi lozim bo‘lgan barqaror rivojlanish maqsadlarining 16-maqsadi “barqaror rivojlanish uchun tinchliksevar va inklyuziv jamiyatlarni rivojlantirish, hamma uchun adolatdan foydalanish imkoniyatini ta’minlash va barcha darajadagi samarali, hisobdor va inklyuziv institutlarni yaratish”ni ko‘zda tutadi[1]. BMT Taraqqiyot dasturining jahon mamlakatlarida demokratik boshqaruvni qo‘llab-quvvatlash bo‘yicha olib borayotgan faoliyati ushbu sohadagi huquqiy asoslarni mustahkamlash zarurligini yanada kuchaytirmoqda[2]. “Venetsiya komissiyasi” tomonidan 2011-yil mart oyida tasdiqlangan “Huquq ustuvorligi” hisobotida huquqiy aniqlik prinsipi huquq ustuvorligining asosiy elementi sifatida e’tirof etilgan[3] bo‘lsa, Yevropa Inson Huquqlari Sudi o‘z qarorlarida huquqiy aniqlik prinsipini qonun ustuvorligi va inson huquqlarini himoya qilishning asosiy elementi sifatida e’tirof etib kelmoqda[4]. Bu holatlar mamlakatimizda huquqiy aniqlik prinsipini ilmiy-nazariy jihatdan chuqur tadqiq etish hamda amaliyotda qo‘llash mexanizmlarini takomillashtirish zarurligini ko‘rsatmoqda.

Jahonda huquqiy aniqlik prinsipini konstitutsiyaviy himoya qilishning samarali mexanizmlarini joriy etish, qonunchilik texnikasi va huquqiy til aniqligini ta’minlash metodologiyasini takomillashtirish, huquqiy normalarni talqin qilishning yagona standartlarini yaratish, sud amaliyotida huquqiy aniqlikni ta’minlashning protsessual kafolatlarini kuchaytirish, raqamli texnologiyalar sharoitida huquqiy aniqlik talablarini huquqiy amaliyotga tatbiq qilish, sun’iy intellekt yordamida yaratilgan huquqiy hujjatlarning aniqlik darajasini baholash mezonlarini belgilash, ma’muriy reglamentlar va qoidalarning aniqligi hamda bashorat qilina olish darajasini oshirish, huquqiy aniqlik prinsipini buzganlik uchun javobgarlik mexanizmlarini takomillashtirish, fuqarolarning huquqiy aniqlikka bo‘lgan talabini sud himoyasi vositasi sifatida mustahkamlash bilan bog‘liq masalalar muhim tadqiqot yo‘nalishlari sifatida o‘rganilmoqda.

O‘zbekistonda so‘nggi yillarda huquqiy aniqlikni ta’minlash samaradorligini oshirish, huquq ijodkorligi sifatini yaxshilash, normativ-huquqiy hujjatlarning aniqligini ta’minlash, sudlov amaliyotida huquqiy normalarni bir xilda qo‘llash mexanizmlarini takomillashtirish bo‘yicha muhim islohotlar amalga oshirilmoqda. Shunga qaramay, “World Justice Project”ning 2023-yilgi huquq ustuvorligi

[1] BMTning 2030-yilgacha erishilishi lozim bo‘lgan barqaror rivojlanish maqsadlarining rasmiy veb-sahifasi. https://sdgs.un.org/goals/goal16.

[2] BMT Taraqqiyot dasturining jahon mamlakatlarida demokratik boshqaruvni qo‘llab-quvvatlash bo‘yicha rasmiy veb-sahifasi. https://www.un.org/ru/global-issues/democracy .

[3] Venice Commission, Report on the Rule of Law, CDL-AD(2011)003rev, Strasbourg, 2011, p.10. // https://rm.coe.int/1680700a61

[4] European Court of Human Rights, Guide on Article 7 of the European Convention on Human Rights, 2023, p.15. // https://www.echr.coe.int/documents/d/echr/convention_ENG

reytingida mamlakatimiz 142 ta davlat orasida 78-o‘rinni egallagan bo‘lib[5], bu ko‘rsatkich huquqiy aniqlikni ta’minlash sohasida qo‘shimcha chora-tadbirlar zarurligini ko‘rsatmoqda. Yangi O‘zbekistonning taraqqiyot strategiyasida “qonun ustuvorligini ta’minlash, sudlov va huquqni muhofaza qilish organlari faoliyati samaradorligini oshirish, korrupsiyaga qarshi kurashish tizimini takomillashtirish, ma’muriy islohotlarni chuqurlashtirish” ustuvor yo‘nalish sifatida belgilangan[6]. Mazkur vazifalar huquqiy aniqlik prinsipini nazariy-metodologik jihatdan tadqiq etish, huquq ijodkorligi va yuridik amaliyoti sifatini oshirish, huquqiy aniqlikni amaliyotda samarali qo‘llash orqali inson huquqlarini kafolatlash hamda huquq ustuvorligini ta’minlash darajasini oshirishni dolzarb etib qo‘ymoqda.

O‘zbekiston Respublikasi Konstitutsiyasi (2023), O‘zbekiston Respublikasining “Normativ-huquqiy hujjatlar to‘g‘risida”gi (2021), “Qonunlar loyihalarini tayyorlash va O‘zbekiston Respublikasi Oliy Majlisining Qonunchilik palatasiga kiritish tartibi to‘g‘risida”gi (2006), “Sudlar to‘g‘risida”gi (2021) qonunlari, O‘zbekiston Respublikasi Prezidentining 2022-yil 28-yanvardagi “2022–2026-yillarga mo‘ljallangan Yangi O‘zbekistonning taraqqiyot strategiyasi to‘g‘risida”gi PF–60-sonli, 2023-yil 11-sentabrdagi “O‘zbekiston–2030” strategiyasi to‘g‘risida”gi PF–158-son, 2018-yil 8-avgustdagi “Norma ijodkorligi faoliyatini takomillashtirish konsepsiyasini tasdiqlash to‘g‘risida”gi PF–5505-son farmonlari hamda sohaga oid boshqa qonun hujjatlarining ijrosini ta’minlashda mazkur dissertatsiya tadqiqoti muayyan darajada xizmat qiladi.

Tadqiqotning respublika fan va texnologiyalari rivojlantirishning ustuvor yo‘nalishlariga bog‘liqligi. Dissertatsiya tadqiqoti respublika fan va texnologiyalar rivojlanishining “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‘nalishiga mos keladi.

Muammoning o‘rganilganlik darajasi. O‘zbekiston Respublikasida huquqiy aniqlik prinsipini yuridik amaliyotga ta’siri va bu borada amalga oshirilgan qonunchilikni takomillashtirish bilan bog‘liq ilmiy tadqiqot hamda izlanishlarni quyidagi yo‘nalishlar bo‘yicha tahlil etish mumkin:

Birinchidan, milliy huquqshunoslik fanida huquqiy aniqlik prinsipiga oid ilmiy-nazariy masalalarning huquq ustuvorligi nuqtayi nazaridan o‘rganilganligini alohida ta’kidlash lozim. Xususan, M. Axmedshayeva, I. Bekov, A. Karimov, I. Kudryavsev, X. Mamatov, A. Muxammadiyev, M. Najimov, J. Ne’matov, Z. Islamov, H. Odilqoriyev, A. Saidov, Sh. Saydullayev, B. Toshev, R. Xakimov, A. Xashimhonov, X. Xayitov, B. Xodjayev va boshqa olimlarning bu boradagi tadqiqotlarini misol qilib keltirish mumkin[7].

Shuningdek, yuridik ilmida huquq prinsiplari va u bilan bog‘liq muammolarga bag‘ishlangan ko‘plab ilmiy tadqiqotlar qilingan bo‘lib, ulardan biri

[5] “World Justice Project”ning O‘zbekiston bo‘yicha 2023-yilgi huquq ustuvorligi reytingining rasmiy veb-sahifasi. https://worldjusticeproject.org/sites/default/files/documents/Uzbekistan_1.pdf .

[6] O‘zbekiston Respublikasi Prezidentining 2022-yil 28-yanvardagi “2022–2026-yillarga mo‘ljallangan Yangi O‘zbekistonning taraqqiyot strategiyasi to‘g‘risida”gi PF–60-son Farmoni // Qonunchilik ma’lumotlari milliy bazasi, 03.01.2024-y., 06/24/221/0003-son.

[7] Mazkur olimlar ishlarining to‘liq ro‘yxati dissertatsiyaning foydalanilgan adabiyotlar ro‘yxatida ko‘rsatilgan.

F.M. Muxitdinovning yuridik fanlar nomzodi ilmiy darajasini olish uchun “Jinoyat ishlarining sud muhokamasida tortishuvlik prinsipini amalga oshirish muammolari” mavzusida yozgan dissertatsiyasidir (1999). Shuningdek, A.A. Muxammadiyevning “Bozor munosabatlari sharoitida fuqarolik huquqi tamoyillarining amal qilishi” (2006), G‘.K. Botirovning “Jinoyat qonunchiligini liberallashtirishda insonparvarlik prinsipi masalalari” (2006), D.Y. Xabibullayevning “Fuqarolik protsessual huquqining tamoyillari va ularni sud amaliyotida tatbiq etish muammolari” (2007), Sh.U. Yakubovning “O‘zbekiston huquqiy tizimida huquqiy qadriyat va tamoyillarning shakllanishi masalasi” (2008), N.I. Xayriyevning “Jinoyat protsessida haqiqatni aniqlash prinsipini amalga oshirish muammolari” (2011), A.A. Muxammadiyevning “Fuqarolik huquqi tamoyillarining nazariy va amaliy muammolari” (2012), I.B. Djurayevning “Jinoyat ishlari yuritiladigan til prinsipi” (2012), A.Sh. Sodikovning “Norma ijodkorligi jarayonida foydalaniladigan axborotga qo‘yiladigan talablar va prinsiplar” (2021) hamda F.B. Maxmudovning “Davlat fuqarolik xizmatida manfaatlar to‘qnashuvining oldini olishda adob-axloq prinsiplari” (2021) ilmiy tadqiqot ishlari ham misol bo‘la oladi. Bundan tashqari, sud hokimiyatining mustaqilligi prinsipi masalalari B.M. Qosimovning yuridik fanlar bo‘yicha falsafa doktori ilmiy darajasini olish uchun yozgan dissertatsiyasida (2021), hokimiyatlar bo‘linishi prinsipi X.U. Turdiyevning yuridik fanlar bo‘yicha falsafa doktori ilmiy darajasini olish uchun yozgan dissertatsiyasida (2021), murojaat qilish huquqini amalga oshirish va murojaatlarni ko‘rib chiqishning asosiy prinsiplari O.R. Fayziyevning doktorlik ishida (2021), huquqiy eksperiment o‘tkazishda aniq maqsadlilik xususiyati Sh.R. Xayitovning yuridik fanlar bo‘yicha falsafa doktori ilmiy darajasini olish uchun yozgan dissertatsiyasida (2022), normativ-huquqiy hujjatlar loyihalarini ekologik ekspertizadan o‘tkazish bosqichlari va asosiy prinsiplari masalasi Sh.X. Bahronovning (2022), sud hujjatlarining qonuniylik, asoslanganlik va adolatlilik prinsiplarining tahlili N.S. Pulatovaning (2022), jinoiy-huquqiy prinsiplarning nazariya va amaliyot masalalari A.I. Toshpulatovning (2023), fuqarolarning norma ijodkorligi jarayonidagi ishtirokining asosiy prinsiplari B.P. Boymurodovning ilmiy izlanishlarida (2023) o‘z ifodasini topgan[8]. Biroq shu paytgacha milliy yuridik fanda huquqiy aniqlik prinsipiga oid nazariy masalalar yaxlit monografik planda o‘rganilmagan.

Ikkinchidan, MDHga davlatlari olimlari A.A. Ivanov, A.V. Demin, A.V. Malko, A.S. Kosach, V.V. Yershov, V.M. Baranov, V.N. Kartashov, V.N. Kudryavsev, G.A. Gadjiyev, G.S. Kelina, Y.V. Vaskovskiy, I.A. Pokrovskiy, I.S. Dakaryev, M.V. Presnyakov, N.A. Arapov, N.A. Vlasenko, N.I. Matuzov, N.S. Bondar, R.K. Rusinov, S.A. Ivanov, S.V. Potapenko, S.Y. Bodrov, S.S. Alekseyev, T.N. Nazarenko, Y.A. Tixomirov, Y.N. Starilovlar[9] tomonidan huquqiy aniqlik prinsipi muayyan darajada o‘rganilgan bo‘lishiga qaramasdan, roman-german huquq oilasiga mansub mamlakatlarda sudlarning huquqni qo‘llashda huquqiy aniqlikka rioya qilish masalalari to‘laqonli tadqiq etilmagan.

[8] Mazkur olimlar ishlarining to‘liq ro‘yxati dissertatsiyaning foydalanilgan adabiyotlar ro‘yxatida ko‘rsatilgan.
[9] Mazkur olimlar ishlarining to‘liq ro‘yxati dissertatsiyaning foydalanilgan adabiyotlar ro‘yxatida ko‘rsatilgan.

Uchinchidan, AQSh, Yevropa va Lotin Amerikasi davlatlari olimlaridan Alberto Xavier, Andreas von Arnauld, Anne-Laure Valembois, Arcos Ramírez, Barros Carvalho, Benjamin Cardozo, Bernd Mertens, Christoph Gusy, Eros Roberto Grau, Federico Arcos Ramnez, Ferrero Lapatza, Franz Scholz, Friedrich Carl von Savigny, Gianmarco Gometz, Guido Alpa, J.Meyer, J.Mezquita de Cacho, Jerome Frank, Katharina Sobota, Misabel de Abreu Machado Derzi, Oscar Adolf Germann, Philip Kunig, S.J. Shapiro, Stefano Bertea, Vom Beru, Willy Zimmer, W. Blackstonelar[10] huquqiy aniqlik prinsipini huquq ustuvorligi hamda qonuniylik prinsipining tarkibiy qismi sifatida o‘rgangan bo‘lib, mamlakatimizda esa mazkur prinsip borasida mavjud muammolarga yetarlicha e’tibor qaratilmagan.

Yuqorida qayd etilgan ilmiy ishlarning tahlili shuni ko‘rsatmoqdaki, huquqiy aniqlik prinsipini huquq ijodkorligiga tatbiq etish hamda yuridik amaliyotda qo‘llash samaradorligini oshirishning nazariy va amaliy masalalari O‘zbekiston Respublikasining qonunchiligi, shuningdek, ilg‘or xorij tajribalar asosida kompleks tadqiq etilishi kerak.

Dissertatsiya tadqiqotining dissertatsiya bajarilayotgan oliy ta’lim muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog‘liqligi. Tadqiqot mavzusi Toshkent davlat yuridik universiteti ilmiy-tadqiqot ishlari rejasiga kiritilib “Demokratik islohotlarni chuqurlashtirish sharoitida insonning fundamental huquqlarini ta’minlashni takomillashtirish” mavzusidagi ish rejasi doirasida bajarilgan.

Tadqiqotning maqsadi huquqiy aniqlik prinsipini ilmiy-nazariy nuqtayi nazardan kompleks tadqiq etish va ushbu sohadagi qonun hujjatlari hamda huquqni qo‘llash amaliyoti samaradorligini oshirishga qaratilgan taklif va tavsiyalar ishlab chiqishdan iborat.

Dissertatsiya ishining vazifalari:

huquqiy aniqlik prinsipining mazmuni hamda xususiyatlarini tahlil etish;

“huquqiy aniqlik” va “noaniqlik” tushunchasi hamda ularning yuridik tabiatini ilmiy tadqiq qilish;

huquqiy aniqlik prinsipining funksiyalarini atroflicha yoritib berish;

huquqiy aniqlik prinsipining normativ-huquqiy asoslarini ko‘rsatib berish;

huquq ustuvorligi va huquqiy aniqlik prinsipining o‘zaro nisbatini ilmiy tadqiq etish;

huquqiy aniqlik prinsipini huquqni qo‘llashdagi ahamiyatini tahlil etish;

huquqiy aniqlik prinsipi borasidagi ilg‘or xorijiy tajribalarni o‘rganib chiqish;

O‘zbekiston Respublikasida huquqiy aniqlik prinsipini tahlil etish orqali tegishli xulosa, taklif va tavsiyalar ishlab chiqish.

Tadqiqotning obyekti O‘zbekiston Respublikasida huquqiy aniqlik prinsipini tushunish va huquqiy amaliyotga tatbiq qilish bilan bog‘liq huquqiy munosabatlar tizimi hisoblanadi.

Tadqiqotning predmetini O‘zbekiston Respublikasida huquqiy aniqlik prinsipini amalga oshirishga oid normativ-huquqiy hujjatlar, huquqni qo‘llash amaliyoti, ilg‘or xorijiy mamlakatlarning qonunchiligi va yuridik amaliyoti, xalqaro

[10] Mazkur olimlar ishlarining to‘liq ro‘yxati dissertatsiyaning foydalanilgan adabiyotlar ro‘yxatida ko‘rsatilgan.

umume'tirof etilgan standartlar, ilmiy adabiyotlarda mavjud bo‘lgan konseptual yondashuvlar, ilmiy-nazariy qarashlar va huquqiy kategoriyalar hisoblanadi.

Tadqiqotning usullari. Tadqiqotni amalga oshirishda tarixiy-huquqiy, mantiqiy, analiz, sintez, induksiya, deduksiya, qiyosiy-huquqiy, huquqiy modellashtirish hamda ilmiy manbalarni kompleks tadqiq etish kabi metodlardan foydalanilgan.

Tadqiqotning ilmiy yangiligi quyidagilardan iborat:

raqobatga ta'sirni baholash sohasida vakolatli organning nazorat funksiyasini kuchaytirish va huquqiy normalarga oid aniqlik kiritish mexanizmini takomillashtirish maqsadida vakolatli organga raqobatga ta'sirni baholash to‘g‘risidagi hujjatlarning normalariga aniqlik kiritish va ular bo‘yicha tegishli tushuntirishlar olish huquqini taqdim etish zarurligi asoslab berilgan;

normativ-huquqiy hujjatlarga oid axborotlarning ochiqligi va shaffofligini ta'minlash hamda jamoatchilik tomonidan huquqiy normalarga erishish imkoniyatlarini kengaytirish maqsadida normativ-huquqiy hujjatlar matnlari va ularni tushuntirishga qaratilgan materiallarning Yagona huquqiy axborot almashish tizimi orqali yetkazish mexanizmini joriy etish zarurligi asoslangan;

ilmiy ekspertiza sifatini oshirish va normativ-huquqiy hujjatlarning istiqboldagi samaradorligini ta'minlash maqsadida ilmiy ekspertizani o‘tkazish davomida aniqlangan, normativ-huquqiy hujjatni qabul qilish natijasida yuzaga kelishi mumkin bo‘lgan boshqa masalalar tahlilini ekspertiza xulosalariga kiritish zarurligi asoslab berilgan.

ilmiy ekspertiza xulosalarining sifati va aniqligini oshirish hamda tashkilotlar o‘rtasida samarali o‘zaro hamkorlik mexanizmini yaratish maqsadida normativ-huquqiy hujjatni qabul qiluvchi organga ilmiy ekspertizani o‘tkazgan tashkilotga xulosada berilgan taklif, e'tiroz, fikr-mulohazalarga aniqlik kiritish uchun so‘rov yuborish vakolatini taqdim etish zarurligi asoslangan.

Tadqiqotning amaliy natijalari quyidagilardan iborat:

huquqiy aniqlik prinsipining milliy huquq tizimidagi o‘rni va ahamiyatini hisobga olgan holda uning kompleks ta'rifi ishlab chiqildi, bunda prinsipning moddiy-huquqiy va protsessual-huquqiy jihatlari uyg‘unligi ta'minlandi;

huquqiy aniqlik prinsipining o‘ziga xos xususiyatlari – normativlik, barqarorlik, bashorat qilina olish, tushunarlilik va izchillik kabi muhim belgilari ochib berildi;

huquqiy aniqlik prinsipi qonun normalarining aniq, bir ma'noli ifodalanishini taqozo qilishi hamda huquqiy munosabatlarni tartibga solishda normalar o‘rtasidagi ziddiyat va kolliziyalarni bartaraf etish mexanizmlari asoslab berildi;

huquqiy aniqlik prinsipining norma ijodkorligi sifatini oshirish, huquqni qo‘llash amaliyotining yagonaligini ta'minlash, sud qarorlarining barqarorligini mustahkamlash hamda fuqarolarning huquq va qonuniy manfaatlarini samarali himoya qilishdagi funksional ahamiyati ilmiy-amaliy jihatdan tahlil qilindi;

huquqiy aniqlik prinsipining konstitutsiyaviy kafolat sifatidagi mohiyati, uning inson huquqlarini ta'minlashdagi protsessual va institutsional mexanizmlari yoritib berildi;

huquqiy aniqlik prinsipining ideal huquqiy tartibga solish modeli sifatida namoyon bo‘lishi, fuqarolarning huquqiy xatti-harakatlarini rejalashtirish va oqibatlarini oldindan ko‘ra bilish imkoniyatini yaratishdagi roli asoslandi;

huquqiy aniqlik prinsipining yuridik tabiati, uning boshqa huquqiy prinsiplar – qonuniylik, adolatlilik, tenglik prinsiplari bilan o‘zaro aloqadorligi kompleks ravishda ochib berildi;

O‘zbekiston Respublikasining ayrim qonun hujjatlariga huquqiy aniqlik prinsipini mustahkamlashga qaratilgan aniq o‘zgartirish va qo‘shimchalar kiritish bo‘yicha amaliy taklif va tavsiyalar ishlab chiqildi.

Tadqiqot natijalarining ishonchliligi. Tadqiqot yakunida o‘z aksini topgan umumnazariy xulosalar, qonun hujjatlarini takomillashtirishga qaratilgan takliflar nazariy qarashlarni va milliy qonunchilik normalarini hamda huquqni qo‘llash amaliyotini tahlil qilish orqali asoslantirilgan. Tadqiqot natijalarining ishonchliligi ishda qo‘llangan usullar, uning doirasida foydalanilgan ilmiy-nazariy yondashuvlar rasmiy manbalardan olinganligi, xalqaro tajriba, xalqaro standartlar va milliy qonunchilik manbalari o‘zaro tahlil qilinganligi, xulosa, taklif va tavsiyalarning amaliyotda qo‘llanayotganligi, natijalarning yetakchi milliy va xorijiy nashrlarda e’lon qilinganligi, vakolatli tuzilmalar tomonidan tasdiqlanganligi bilan belgilanadi.

Tadqiqot natijalarining ilmiy va amaliy ahamiyati. Tadqiqot natijalarining ilmiy ahamiyati undagi ilmiy-nazariy xulosalar, taklif va tavsiyalardan huquqiy aniqlik prinsipini tatbiq qilishning tashkiliy-huquqiy asoslarini takomillashtirish yuzasidan ilmiy izlanishlar olib borish, qonun hujjatlarining tegishli normalarini sharhlash, milliy qonunchilikni takomillashtirish hamda “Konstitutsiyaviy huquq”, “Davlat va huquq nazariyasi”, “Norma ijodkorligi”, “Yuridik texnika” fanlarini o‘qitish va ilmiy-nazariy jihatdan yanada boyitishda foydalanish mumkinligida namoyon bo‘ladi.

Tadqiqot natijalarining amaliy ahamiyati O‘zbekiston Respublikasida huquqiy aniqlik prinsipini belgilovchi normativ-huquqiy hujjatlarni, huquqni qo‘llash amaliyotini takomillashtirishda, huquq ijodkorligi subyektlari faoliyatida foydalanish mumkinligi bilan belgilanadi.

Tadqiqot natijalarining joriy qilinishi. huquqiy aniqlik prinsipinining nazariy-huquqiy asoslarini takomillashtirish bo‘yicha olingan ilmiy natijalar asosida:

vakolatli organ raqobatga ta’sirni baholash to‘g‘risidagi hujjatlarning normalariga aniqlik kiritishga va ular bo‘yicha tegishli tushuntirishlar olishga haqli degan taklif O‘zbekiston Respublikasi Vazirlar Mahkamasining 2023-yil 29-dekabrdagi 694-son qarori bilan tasdiqlangan “Normativ-huquqiy hujjatlar va ular loyihalarining raqobatga ta’sirini baholash tartibi to‘g‘risida”gi nizomning 22-bandi 3-xatboshisini ishlab chiqishda inobatga olingan (O‘zbekiston Respublikasi Vazirlar Mahkamasi qoshidagi Yuridik ta’minlash boshqarmasining 2024-yil 7-noyabrdagi 12-15-80-son dalolatnomasi). Ushbu taklifning inobatga olinishi raqobatga ta’sirni baholash to‘g‘risidagi hujjatlarning normalariga aniqlik kiritishga va ular bo‘yicha tegishli tushuntirishlar olishga bo‘lgan huquqlarga aniqlik kiritishga xizmat qiladi;

normativ-huquqiy hujjatlar matnlari va ularni tushuntirishga qaratilgan materiallarning Yagona huquqiy axborot almashish tizimi orqali yetkazishni joriy etishga oid taklif O‘zbekiston Respublikasi Vazirlar Mahkamasining 2024-yil 18-sentabrdagi 588-son qarori bilan tasdiqlangan “2024–2025-yillarda jamiyatda huquqiy madaniyatni yuksaltirish bo‘yicha chora-tadbirlar dasturi”ning 37-bandini ishlab chiqishda inobatga olingan (O‘zbekiston Respublikasi Vazirlar Mahkamasi qoshidagi Yuridik ta’minlash boshqarmasining 2024-yil 7-noyabrdagi 12-15-80-son dalolatnomasi). Ushbu taklifning amalga oshirilishi normativ-huquqiy hujjatlar matnlari va ularni tushuntirishga qaratilgan materiallarning Yagona huquqiy axborot almashish tizimi orqali yetkazishni joriy etishga xizmat qiladi;

ilmiy ekspertizani o‘tkazish davomida aniqlangan, normativ-huquqiy hujjatni qabul qilish natijasida yuzaga kelishi mumkin bo‘lgan boshqa masalalar tahlili aks etishi lozimligiga oid taklif Vazirlar Mahkamasining 2025-yil 22-yanvardagi 29-son qarori bilan tasdiqlangan “Normativ-huquqiy hujjatlar loyihalarini ilmiy ekspertizadan o‘tkazish tartibi to‘g‘risida”gi nizomning 16-bandi 8-xatboshisini ishlab chiqishda inobatga olingan (O‘zbekiston Respublikasi Bosh vaziri kotibiyatining Axborot-tahlil va yuridik ta’minlash deportamentining 2025-yil 26-apreldagi 30-son dalolatnomasi). Ushbu taklifning amalga oshirilishi normativ-huquqiy hujjatlarning ilmiy ekspertizasini o‘tkazish davomida aniqlangan, istiqbolda yuzaga kelishi mumkin bo‘lgan turli holatlarning tahliliga xizmat qiladi;

normativ-huquqiy hujjatni qabul qiluvchi organ ilmiy ekspertizani o‘tkazgan tashkilotga xulosada berilgan taklif, e’tiroz, fikr-mulohazalarga aniqlik kiritish maqsadida so‘rov yuborishi mumkin ekanligiga oid taklifi Vazirlar Mahkamasining 2025-yil 22-yanvardagi 29-son qarori bilan tasdiqlangan “Normativ-huquqiy hujjatlar loyihalarini ilmiy ekspertizadan o‘tkazish tartibi to‘g‘risida”gi nizomning 23-bandini ishlab chiqishda inobatga olingan (O‘zbekiston Respublikasi Bosh vaziri kotibiyatining Axborot-tahlil va yuridik ta’minlash deportamentining 2025-yil 26-apreldagi 30-son dalolatnomasi). Ushbu taklifning joriy etilishi normativ-huquqiy hujjatni qabul qiluvchi organning ilmiy ekspertizani o‘tkazgan tashkilotga xulosada bildirilgan taklif, e’tiroz va fikr-mulohazalarga aniqlik kiritish maqsadida so‘rov yuborish vakolatini aniq belgilab beradi.

Tadqiqot ishi natijalarining aprobatsiyasi. Mazkur tadqiqot natijalari 4 ta ilmiy anjuman, jumladan, 2 ta xalqaro hamda 2 ta respublika ilmiy-amaliy konferensiyalari, davra suhbatlari va seminarlarda muhokamadan o‘tkazilgan.

Tadqiqot natijalarining e’lon qilinganligi. Dissertatsiya mavzusi bo‘yicha jami 17 ta ilmiy ish, jumladan, O‘zbekiston Respublikasi Oliy ta’lim, fan va innovatsiyalar vazirligi huzuridagi Oliy attestatsiya komissiyasining dissertatsiyalarning asosiy natijalarini chop etish tavsiya etilgan milliy nashrlarda 5 ta va xorijiy ilmiy jurnallarda 8 ta maqola chop etilgan.

Dissertatsiyaning tuzilishi va hajmi. Dissertatsiya tarkibi kirish, 8 paragrafdan iborat uchta bob, xulosa hamda foydalanilgan adabiyotlar ro‘yxatidan iborat. Dissertatsiyaning hajmi 154 betni tashkil etadi.

DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiyaning **kirish** qismida tadqiqot mavzusining dolzarbligi va zarurati, uning respublika fan va texnologiyalari rivojlanishining ustuvor yo‘nalishlariga bog‘liqligi, mavzu bo‘yicha xorijiy ilmiy tadqiqotlar sharhi, muammoning o‘rganilganlik darajasi, mavzuning dissertatsiya bajarilayotgan oliy ta’lim muassasasining ilmiy tadqiqot ishlari bilan aloqasi, uning maqsad va vazifalari, obyekti va predmeti, usullari, ilmiy yangiligi va amaliy natijasi, tadqiqot natijalarining ishonchliligi, ilmiy va amaliy ahamiyati, amaliyotga joriy qilinishi, aprobatsiyasi, tadqiqot natijalarining e’lon qilinganligi, dissertatsiyaning hajmi va tuzilishi haqida ma’lumotlar keltirilgan.

Dissertatsiyaning birinchi bobi “**Huquqiy aniqlik prinsipining nazariy-metodologik jihatlari**” deb nomlanib, unda huquqiy aniqlik prinsipining mazmuni va xususiyatlari, huquqdagi aniqlik va noaniqlik tushunchalari hamda ularning yuridik tabiati, shuningdek, huquqiy aniqlik prinsipining funksiyalari tahlil qilingan.

Tadqiqotchi milliy yuridik fanda huquq ustuvorligi nuqtayi nazaridan huquqiy aniqlik prinsipi bilan bog‘liq ilmiy-nazariy masalalarni tahlil qilishda ko‘plab olimlarning A. Karimov, A. Saidov, B. Toshev, B. Xodjayev, J. Ne’matov, I. Kudryavsev, M. Axmedshayeva, M. Najimov, R. Xakimov, S. Muxammadiyev, X. Mamatov, X. Xayitov, H. Odilqoriyev, Sh. Saydullayev, F.M. Muxitdinov, A.A. Muxammadiyev, G‘.K. Botirovning, D.Y. Xabibullayev, Sh.U. Yakubov, N.I. Xayriyev, A.A. Muxammadiyev, I.B. Djurayev, A.Sh. Sodikov, B.M. Qosimov, MDHga a’zo mamlakatlar olimlari A.A. Ivanov, A.V. Demin, A.V. Malko, A.S. Kosach, V.V. Yershov, V.M. Baranov, V.N. Kartashov, V.N. Kudryavsev, G.A. Gadjiyev, G.S. Kelina, Y.V. Vaskovskiy, I.A. Pokrovskiy, I.S. Dakarev, M.V. Presnyakov, N.A. Arapov, N.A. Vlasenko, N.I. Matuzov, N.S. Bondar, R.K. Rusinov, S.A. Ivanov, S.V. Potapenko, S.Y. Bodrovlar S.S. Alekseyev, T.N. Nazarenko, Y.A. Tixomirov, Y.N. Starilovlar tomonidan huquqiy aniqlik prinsipi muayyan darajada o‘rganilgan bo‘lishiga qaramasdan, roman-german huquq oilasiga mansub mamlakatlarda sudlar tomonidan huquqiy pretsedentlarni qo‘llashda huquqiy aniqlikka rioya qilish masalalari to‘laqonli tadqiq etilmagan.

Bundan tashqari, AQSh, Yevropa va Lotin Amerikasi mamlakatlari olimlari Alberto Xavier, Andreas von Arnauld, Anne-Laure Valembois, Arcos Ramírez, Barros Carvalho, Benjamin Cardozo, Bernd Mertens, Christoph Gusy, Eros Roberto Grau, Federico Arcos Ramnez, Ferrero Lapatza, Franz Scholz, Friedrich Carl von Savigny, Gianmarco Gometz, Guido Alpa, J. Meyer, J.Mezquita de Cacho, Jerome Frank, Katharina Sobota, Misabel de Abreu Machado Derzi, Oscar Adolf Germann, Philip Kunig, S.J. Shapiro, Stefano Bertea, Vom Beru, Willy Zimmer, W. Blackstonelarning fikrlari tahlili asosida “huquqiy aniqlik prinsipi” tushunchasiga quyidagi mualliflik ta’rifini ishlab chiqilgan:

“Huquqiy aniqlik prinsipi – huquq ustunligini ta’minlash vositasi sifatida yuridik amaliyotda, jumladan, qonun ijodkorligi va huquqni qo‘llash faoliyatida,

huquq normasi va huquqiy qarorlarning adolatli bo‘lishi uchun aniq, izchil va to‘laqonli bo‘lishini ta’minlovchi bosh g‘oyaviy qoidadir”.

Shuningdek, huquqiy aniqlik prinsipining xususiyatlari bayon etilgan, xususan:

normativ-huquqiy hujjatlarning aniq va bir xilda tushunish;

normativ-huquqiy hujjatlar va huquqni qo‘llash hujjatlarining tegishli tartibda oshkora e’lon qilinganligi;

huquqni qo‘llash hujjatlarining aniq va ijroga qat’iy qaratilganligi;

huquqiy manfaatlarning ishonchliligi va barqarorligini qaror toptirish hamda normativ-huquqiy hujjatlar orqaga qaytish kuchining cheklanishi.

Shu bilan birga, huquqiy aniqlik prinsipi haqida quyidagi xulosalarga kelingan:

huquqning belgilovchi elementi ekanligini tushunish, huquq normalarni yaratish va amalga oshirishda huquqiy aniqlik prinsipining ahamiyatiga asoslanadi. Shu ma’noda, huquqiy aniqlik belgilovchi element sifatida uning huquqiy prinsip sifatida ilmiy ahamiyatga ega bo‘lishini nazarda tutadi. Bu kuzatishlar huquqiy aniqlikni tahlil qilishning bir necha usullarini farqlash, ularning aniq munosabatini yoki hatto semantik o‘zaro bog‘liqligini bartaraf etmasligini va aksincha, mazkur uch tushunchaning o‘zaro bog‘liqligi ularning farqlanishiga to‘sqinlik qilmasligini ta’kidlash uchun mo‘ljallanganligini ko‘rish mumkin.

Yuqoridagi barcha kuzatishlar shuni ko‘rsatishga qaratilganki, huquqiy aniqlik bir xil obyektni turli nuqtayi nazardan ko‘rib chiqishda, bir xil qarash mumkinligiga ishonish, shuningdek, obyektni va tahlil qilinadigan nuqtayi nazarni chegaralash va uni samarali tushunishning ajralmas shartidir.

Mazkur tadqiqot ishida huquqiy aniqlik, birinchi navbatda, prinsip sifatida, ya’ni qonun chiqaruvchi, sud va ijro etuvchi hokimiyat organlariga yo‘naltirilgan ko‘rsatma sifatida, ikkinchidan, huquqiy tartibning ishonchliligi va barqarorligiga xizmat qiluvchi omil sifatida tadqiq etilgan hamda uning yuridik amaliyotdagi o‘rni va ahamiyati tadqiq etilgan. Jumladan, yuridik amaliyotda huquqni qo‘llash qarorlaridagi “ex tunc” (oldingi) avvalgi huquq normalarini va ularni qo‘llash samaradorligi qoidasiga e’tibor bermaslik huquqiy munosabatlarga “qancha miqdordagi” noaniqliklarga sabab bo‘lishi milliy-ilmiy adabiyotlarda yoki huquqiy monitoringda “o‘lchanmagan”. Shuning uchun ham huquqiy aniqlikning o‘lchov birliklarini joriy etish amaliyotdagi ayrim ziddiyat va kamchiliklarni bartaraf etishga xizmat qiladi. Shu bilan birga, huquqiy aniqlik prinsipining huquqiy samaradorligi ikkita asosiy masalasini o‘z ichiga oladi. Birinchisi, uning normativ funksiyasiga, ya’ni boshqa me’yorlarga yoki inson xatti-harakatlariga nisbatan ta’sirlarni ishlab chiqarish usuli bilan bog‘liq. Ikkinchisi uning normativ kuchiga, ya’ni boshqa normativ qoidalarga qarama-qarshilikda qanday chora qo‘llashga taalluqlidir.

Yuqoridagi ilmiy-nazariy tahlillarni umumlashtirgan holda, huquqiy aniqlik prinsipining yuridik tabiati quyidagilarda namoyon bo‘lishi to‘g‘risidagi yaxlit xulosaga kelingan:

1) huquqiy aniqlik boshqa huquq prinsiplar bilan bir qatorda turli ma’noda tushunish mumkin bo‘lgan kategoriyadir;

2) huquqiy aniqlik prinsipi milliy huquq tizimi va boshqa huquq oilalarining obyektiv qonuniyatlari va mohiyatini aks ettiruvchi, huquq ijodkorligi va yuridik amaliyotda barqarorlik va bir xillikka erishish vositasidir;

3) huquqiy munosabatlarga ishonch va barqarorlik ta'minlovchi huquqiy kategoriya sifatida huquqning sifat holatini obyektiv ravishda tavsiflaydi;

4) integrativ huquqiy tushunish nuqtayi nazaridan huquq normalarini qo'llash tizimini erkinlashtirishga zamin yaratadi;

5) huquqning noaniqlikdan huquqning aniqlikka uzluksiz harakat qilishning obyektiv zarurati uning huquqni qo'llash organlari va shaxslar tomonidan dinamik huquqiy munosabatlar tabiatiga qat'iy bog'liq;

6) huquq aniqligining muhim belgisi sifatida uning mutlaq yoki nisbiyligi muhim belgi bo'lib, aniqlikning miqdoriy o'lchovlarini huquq ijodkori tomonidan joriy etishni taqozo etadi;

7) integrativ huquqiy tushunish nuqtayi nazaridan huquqiy aniqlik nafaqat moddiy huquqning aniqligi, balki protsessual huquqning aniqligini ham taqozo etadi;

8) huquqni qo'llash hujjatlari ayniqsa, sud hujjatlarini qayta ko'rib chiqishda huquqiy aniqlikka bo'lgan yakdil yondashuvni yaratib bo'lmasligi;

9) huquqiy pozitivizm nuqtayi nazaridan tushunish huquqning noaniqligidan huquqning aniqligiga doimiy harakatini nazariy jihatdan asoslab bo'lmaydi va bunday ish amalda samarasizdir;

10) huquqiy aniqlik prinsipi nafaqat huquqni qo'llash jarayonidagi aniqlik, balki huquq ijodkorligida ham talab etiladigan obyektiv zarurat hisoblanadi.

Ma'lumki, huquqiy aniqlik prinsipining o'ziga xos huquq prinsipi sifatidagi funksiyalari nuqtayi nazaridan biz uning huquqiy tartibga solishga qanday ta'sir ko'rsatishi, uning huquq tizimidagi o'rni va ahamiyati kabi masalalarga e'tibor qaratishimiz lozim bo'ladi. Xususan, huquqiy aniqlik prinsipining mohiyatini to'laqonli anglash va tahlil etish uchun uning turli huquq maktablaridagi ahamiyati va mazmuniga diqqat qaratish zaruratini taqozo etadi.

Tabiiy huquq maktabi tarafdorlari huquqiy aniqlik bo'yicha asosiy e'tiborni huquqning obyektivligiga, uning huquq ijodkorining (normativ-huquqiy hujjatlar qabul qilish huquqiga ega bo'lgan organ va mansabdor shaxslar) irodasidan mustaqilligiga qaratadi.

Integral yondashuv nuqtayi nazaridan, huquq tegishli huquq normalari va prinsiplar tizimidir. Ular davlatning obyektiv ravishda belgilangan irodasini yoki jamiyat tomonidan rivojlanishning ko'p asrlik tajribasi natijasida ishlab chiqilgan axloqiy asoslar, ya'ni prinsiplarni belgilaydi.

Huquqda munosabatlarni tartibga solishning ikkita mustaqil vositasi, huquq normalari va prinsiplari mavjudligi ularning ham funksiyalarga ega bo'lishini inkor etmaydi.

Milliy huquqshunos olimlarning fikr-mulohazalarini tahlil etilgan holda, huquqiy aniqlik prinsipining funksiyalari haqida quyidagi fikrlar ilgari surilgan:

huquqning boshqa prinsiplari bilan bir qatorda, huquqiy aniqlik prinsipi ham tartibga solish funksiyasidan keng foydalanadi.

Huquqiy aniqlik prinsipining barqarorlashtirish funksiyasi huquq va majburiyatlarni individuallashtirish va konkretlashtirish, shuningdek, huquqni qo‘llash va amalga oshirish bosqichlari uchun umumiydir.

Huquqni qo‘llash bosqichida huquqiy aniqlik prinsipining tartibga soluvchi roli, qonunning barcha prinsiplariga xos bo‘lgan funksiyalarni bajarishda ham, ya’ni talqin qilish, shuningdek, bo‘shliqlarni bartaraf etishda namoyon bo‘ladi.

Huquqiy aniqlik prinsipining sharhlash funksiyasining misoli sifatida keltirish mumkin.

Huquqiy munosabatlarni tartibga solishda huquqiy aniqlik prinsipining regulyativ funksiyasini amalga kiritishda sud pretsedentini mamlakatimizda joriy etish istiqbollarini tadqiq etish lozim.

Shu bilan birga, huquqiy aniqlik prinsipining alohida funksiyasi sifatida normativ nazorat funksiyasini ajratib ko‘rsatish maqsadga muvofiq.

Dissertatsiyaning “**Huquqiy aniqlik prinsipining huquqni qo‘llashda tutgan o‘rni**” deb nomlangan ikkinchi bobida tadqiqotchi tomonidan huquqshunos olimlarning mavzuga oid fikr-mulohazalarini tahlil etish bilan birga, huquqiy aniqlik prinsipining normativ-huquqiy asoslari, huquqiy aniqlik prinsipi – huquq ustuvorligining talabi sifatida namoyon bo‘lishini, huquqiy aniqlik prinsipini huquqni qo‘llashdagi ahamiyati kabi masalalarni tadqiq etishda mustaqil xulosalarga kelingan hamda taklif va tavsiyalar ishlab chiqilgan. Xususan, O‘zbekiston Respublikasining “Normativ-huquqiy hujjatlar to‘g‘risida” Qonunida “prinsip” so‘zi 8 marta qo‘llangan bo‘lsa-da, huquqiy aniqlik prinsipi haqida ma’lumot keltirilmagan. Holbuki, normativ-huquqiy hujjatlar mazkur prinsip talablariga javob berishi korrupsiyaga qarshi ekspertizada tekshirilishi qat’iy belgilangan bo‘lsa-da, bu boradagi asosiy qonunda huquqiy aniqlik masalasi ochiq qolganligi ko‘rsatib o‘tilgan. Shuningdek, ushbu dissertatsiyaning mazmun-mohiyatidan kelib chiqib, yuqorida qayd etilgan qonunning 5-moddasini quyidagi tahrirda ifodalash taklifi ilgari surilgan:

“Ushbu Qonunning asosiy prinsiplari quyidagilardan iborat:

konstitutsiyaviylik;

qonuniylik;

jismoniy va yuridik shaxslarning huquqlari hamda qonuniy manfaatlarini, jamiyat va davlat manfaatlarini himoya qilish hamda ularning ustuvorligi;

oshkoralik;

ilmiylik;

ijtimoiy munosabatlarni huquqiy jihatdan tartibga solishning tizimliligi va komplekslilig;

huquqiy aniqlik;

ijtimoiy munosabatlarni huquqiy jihatdan tartibga solishning barqarorligi”.

Bundan tashqari, “Qonunlar loyihalarini tayyorlash va O‘zbekiston Respublikasi Oliy Majlisining Qonunchilik palatasiga kiritish tartibi to‘g‘risida”gi O‘zbekiston Respublikasining Qonunida “prinsip” so‘zi 2 marta qo‘llangan bo‘lib, 13- va 15-moddalarda xalqaro shartnomalarining prinsiplari (13-modda) hamda xalqaro huquqning umume’tirof etilgan prinsiplari (15-modda) nazarda tutilganligi

va qonun loyihalarini tayyorlash bo‘yicha asosiy bo‘lgan mazkur qonunga huquqiy aniqlik prinsipini kiritish maqsadga muvofiqligi bayon etilgan:

“**20-modda. Qonun loyihasi bayoniga taalluqli talablar**

Qonun loyihasi huquqiy aniqlik prinsipi asosida ijtimoiy munosabatlarni huquqiy jihatdan tartibga solishning, barqarorligi, tizimliligi va komplekslilig talablariga javob berishi shart.

Qonun loyihasi lo‘nda, aniq, oddiy va ravon tilda, normalarni turlicha izohlashni istisno etadigan tarzda yuridik atamashunoslikka rioya qilingan holda bayon qilinadi. Eskirgan hamda ko‘p ma’noni anglatadigan so‘zlar va iboralar, majoziy taqqoslashlar, sifatlashlar, kinoyalar qo‘llanishiga yo‘l qo‘yilmaydi.

Qonun loyihasi matnidagi jumlalar haddan tashqari uzun bo‘lishiga yo‘l qo‘yilmaydi”.

Shu bilan birga, huquqiy aniqlik prinsipi huquqni qo‘llash jarayonida qo‘llanishi huquqni qo‘llovchi subyekt tomonidan qonuniylik va huquq ustunligini ta’minlashga xizmat qilishi, ayniqsa, sud hokimiyatining mavqeyini oshirish, sud hokimiyatining chinakam mustaqilligini ta’minlashga zamin yaratadi. Xususan, mamlakatimizda huquqiy pretsedentdan huquq manbasi sifatida foydalanish amaliyotiga o‘tish, ayrim salbiy jihatlariga ega bo‘lishiga qaramay, huquq ustuvorligini ta’minlash, inson huquq va erkinliklarini oliy qadriyat sifatida e’tirof etish uchun xizmat qilishi alohida ta’kidlanadi.

Shuningdek, huquqni qo‘llovchi shaxs uchun qonun ustuvorligi aniq bo‘lishi muhim, u huquqni emas, balki ma’lum bir huquq normasini qo‘llaydi va u huquqning o‘ziga emas, balki huquq normasining aniqligiga muhtoj, chunki bahsli munosabatlarni faqat ma’lum bir huquq normasi bilan tartibga solish mumkinligi, agar bunday bo‘lmasa, u holda huquqni qo‘llovchi shaxs noaniq huquq normalarini yoki Oliy Sud Plenumining qarorlarini qo‘llashning aniq sud amaliyotiga murojaat qilishi hamda huquqiy aniqlik prinsipi huquqni qo‘llash jarayonida qo‘llanishi huquqni qo‘llovchi subyekt tomonidan qonuniylik va huquq ustunligini ta’minlashga xizmat qilishi, ayniqsa, sud hokimiyatining mavqeyini oshirish, sud hokimiyatining chinakam mustaqilligini ta’minlashga zamin yaratishi, xususan, huquqiy pretsedentni mamlakatimizda huquq manbasi sifatida foydalanish amaliyotiga o‘tish o‘zining bir qancha ijobiy jihatlari bilan birga ayrim salbiy xususiyatlariga ega bo‘lsa-da, huquq ustuvorligini ta’minlash, inson huquq va erkinliklarini oliy qadriyat sifatida e’tirof etishga xizmat qilishi asoslab berilgan.

Dissertatsiyaning “**Huquqiy aniqlik prinsipini yuridik amaliyotda joriy etishning o‘ziga xos xususiyatlari**” deb nomlangan uchinchi bobida huquqiy aniqlik prinsipi borasida ilg‘or xorijiy tajriba va O‘zbekistonda huquqiy aniqlik prinsipini yuridik amaliyotda joriy etish muammolarini tahlil qilish asosida xorijiy mamlakatlardagi huquqiy aniqlikka oid o‘ziga xos tajribalar o‘rganilgan hamda respublikamiz yuridik amaliyotida ushbu prinsipni joriy etish masalalari atroflicha tahlil qilingan va quyidagi xulosalarga kelingan:

Huquqiy aniqlik va ziddiyatli vaziyatlar qonunchilikda yoki yuridik amaliyotga uchrashi tan olinishi, bunday holatlarda noaniqliklar shaxslar foydasiga hal etilishi belgilangan bo‘lishiga qaramasdan, ularning oldini olish yoki sudlar

tomonidan ularni bartaraf etish mexanizmlari to‘liq tartibga solinmaganligi hamda huquqiy aniqlik prinsipini O‘zbekiston sharoitida qo‘llashning quyidagi muammolarini keltirib o‘tilgan:

birinchidan, huquqiy tizim va qonunchilikning o‘ziga xos ekanligi, ya’ni mamlakatimizning qonunchilik bazasi murakkab bo‘lib, huquqiy aniqlikdan huquq manbasi sifatida foydalanishga yo‘l qo‘yilmaydi. Shuningdek, qonunlar va me’yoriy hujjatlarning juda ko‘pligi chalkashliklarni keltirib chiqarishi va huquqiy aniqlik tamoyilini qo‘llashga to‘sqinlik qilishi mumkin;

ikkinchidan, huquqiy aniqlik asosan huquqni qo‘llovchi subyektlar tomonidan amalga oshirilishini inobatga olgan holda ma’muriy organlar va sudlar tomonidan qonunlarni talqin qilish va qo‘llash turlicha bo‘lishi mumkin. Huquqiy talqinlarda bir xillikning yo‘qligi huquqiy aniqlikka putur yetkazishi mumkin, chunki shaxslar shunga o‘xshash ishlar bo‘yicha turli natijalarni olishlari mumkin;

uchinchidan, huquqiy ong va huquqiy madaniyatga bog‘liq muammolar bo‘lib, vakolatli mansabdor shaxslarning bu boradagi fikr-mulohazalarini o‘zgartirish orqali huquqiy aniqlik mamlakatimiz taraqqiyotiga xizmat qilishiga ishonchni yaratish talab etiladi. Islohotlarni yuqori darajadagi mansabdor shaxslardan boshlamas ekanmiz, quyi turuvchi mansabdor shaxslar tomonidan bu borada amaliy natijalarga erishish dargumondir;

to‘rtinchidan, yuridik amaliyotda huquqiy noaniqliklarning mavjudligi, korrupsion xavflar keltirib chiqarishi mumkinligi nazarda tutiladi. Zero, korrupsion omillarning nomaqbul ta’sir holatlari huquqiy tizimning yaxlitligi va adolatliligiga putur yetkazishi hamda fuqarolar ishonchini yo‘qotishiga olib kelishi kerak.

Bu xususida ilg‘or xorijiy tajribaga murojaat qilgan holda dissertant tomonidan quyidagi fikr-mulohazalar keltirib o‘tilgan:

Inson huquqlari bo‘yicha Yevropa sudi xulosalariga asosan, qonun ustuvorligining asosiy jihatlaridan biri huquqning aniqligi prinsipidir.

Yevropa yuridik adabiyotlarida “huquqiy aniqlik” tushunchasi huquqiy xavfsizlik “legal security” deb ataladigan tushuncha bilan yonma-yon keladi.

Inson huquqlari bo‘yicha Yevropa sudi faoliyati milliy qonunchilik hujjatlarning huquqiy aniqlik talablaridan kelib chiqishini qayd etadi.

Xususan, konvensiyada belgilanishicha, “normativ-huquqiy hujjat fuqaro uchun huquqiy xulq-atvor va uning oqibatlari uchun yo‘l-yo‘riq sifatida mavjud bo‘lishi va muayyan holatda qo‘llanadigan huquq normalarni hisobga olgan holda yetarli bo‘lishi kerak”.

Huquqiy aniqlik prinsipini qonun ijodkorligi faoliyati sohasida qo‘llash asosiy huquq normalarning yuqori sifatini ta’minlashga va natijada butun huquq tizimining samaradorligini ta’minlashga qaratilgan.

Bu borada huquqiy aniqlik prinsipi yuzasidan ilg‘or xorijiy tajribaga murojaat qilib, Germaniya Federativ Respublikasi Konstitutsiyaviy sudi tomonidan Asosiy qonun bo‘lgan Konstitutsiyaga zid keladigan har qanday qonunni nomuvofiq deb topish uchun huquqiy aniqlik prinsipidan foydalanilishi, ushbu holatda huquqiy aniqlik fuqarolarning erkinliklarini cheklash uchun emas, balki ularning huquqlarini himoya qilishga xizmat qilishi e’tirof etilgan va yuqorida keltirib o‘tilgan xulosadan

kelib chiqib, O‘zbekiston Respublikasi yuridik amaliyotida ham shunday holatlar yuzaga keladigan bo‘lsa, Konstitutsiyaviy sud masalani huquqiy aniqlik prinsipiga asoslanib hal qilishi maqsadga muvofiq bo‘lishi qayd etilgan.

Shuningdek, roman-german huquq oilasiga mansub mamlakatlar, xususan Braziliya, GFR va Ispaniyada huquqiy aniqlik prinsipidan ham huquq ijodkorligida ham huquqni qo‘llashda foydalanilishdagi tajribalardan kelib chiqib, mamlakatimizda ham huquq ijodkorligida va huquqni qo‘llashda mazkur prinsipdan unumli foydalanish maqsadga muvofiqligi taklifi keltirib o‘tilgan.

Shu bilan birga, Inson huquqlari bo‘yicha Yevropa sudi ishlari, xalqaro konvensiya va xalqaro umume’tirof etilgan xalqaro shartnomalarda huquqiy aniqlik prinsipi huquq ustunligini ta’minlashda, inson huquqlarini kafolatlashda muhim ahamiyatga ega ekanligini, huquqiy aniqlik prinsipi ham huquq normasini ijod qilish ham huquqni qo‘llashda foydalanilishi e’tirof etilgan.

XULOSA

Huquqiy aniqlik prinsipi masalasini ilmiy-nazariy nuqtayi nazardan tahlil etish hamda tadqiqot oldiga qo‘yilgan vazifalarni hal etish natijalari quyidagi xulosalarga kelishga, shuningdek, normativ-huquqiy bazani yanada takomillashtirish bo‘yicha taklif va tavsiyalarni ilgari surishga xizmat qildi:

I. Ilmiy-nazariy xulosalar

1. Huquqiy aniqlik prinsipi huquq ustunligiga erishish vositasi sifatida yuridik amaliyotda, jumladan, norma ijodkorligi va huquqni amalga oshirish jarayonida normativ-huquqiy hujjatlar hamda huquqni qo‘llash hujjatlarining adolatli bo‘lishini ta’minlovchi aniqlik, izchillik va to‘laqonlilik haqidagi bosh rahbariy qoidadir. Chunki huquqiy aniqlik prinsipiga erkinlik, mulk va qadr-qimmat kabi boshqa qadriyatlarni kafolatlash vositasi sifatida qaraladi.

2. Huquqiy aniqlik prinsipi o‘z mazmun-mohiyatiga ko‘ra quyidagi asosiy jihatlarni o‘z ichiga oladi:

normativ-huquqiy hujjatlar mazmunining aniq, ravshan va yagona talqinda tushunilishi;

normativ-huquqiy hujjatlar hamda huquqni qo‘llashga oid hujjatlarning belgilangan tartibda rasmiy ravishda e’lon qilinishi;

huquqni qo‘llash hujjatlarining aniqligi, amaliyotga yo‘naltirilganligi va huquqni samarali amalga oshirishga xizmat qilishi;

huquqiy manfaatlarning ishonchliligi va barqarorligini kafolatlash, shuningdek, normativ-huquqiy hujjatlarni o‘zgartirishning muayyan cheklovlarga rioya etgan holda amalga oshirilishi.

3. Huquqiy aniqlik prinsipi huquq normalarining aniq va shaffof bo‘lishini taqozo etadi va huquqiy munosabatlarni tartibga solishda amaldagi huquq normalari bilan hosil bo‘lgan ziddiyatlarni istisno qiladi.

Agar muayyan normativ-huquqiy hujjat belgilangan xulq-atvor qoidalarini noaniq shakllantirgan va uni tushunish hamda qo‘llash uchun yetarlicha aniq bo‘lmasa, huquqiy aniqlik prinsipiga muvofiq hisoblanishi mumkin emas.

4. Huquqiy aniqlik prinsipi pozitiv huquq nuqtayi nazaridan yuridik kuchga ega bo‘lgan huquq prinsiplari va huquq normalarini aniqlashtirish orqali norma ijodkorligi va huquqni amalga oshirish jarayonlari samaradorligiga, shuningdek, muayyan sud hujjatlarini qabul qilish va yuridik amaliyotining barqarorlik darajasini yuksaltirish hamda sud protsessi ishtirokchilarining huquq va qonuniy manfaatlarini ta’minlanishiga erishish imkonini beradi.

5. Huquqiy aniqlik prinsipini huquqiy kafolat sifatida talqin etish mumkin. Huquq normalari shaxslarga ma’muriy tartib-taomillar yoki sud jarayoni orqali o‘z huquq va erkinliklarini himoya qilish uchun yetarli imkoniyatlar yaratishi lozim. Mazkur imkoniyatlar fuqarolarga, xususan, ma’muriy sudlarda davlat hokimiyati organlari yoki mansabdor shaxslarning huquqqa zid xatti-harakatlari va qarorlaridan himoyalanish huquqini ta’minlaydi.

6. Huquqiy aniqlik huquq normasi yoki normativ-huquqiy hujjatlar orqali tartibga solishning ideal holati sifatida namoyon bo‘ladi. Bunday sharoitda fuqarolar o‘zlari bo‘ysunadigan normalarning mazmunini aniq anglab, sodir etadigan xatti-harakatlarining huquqiy oqibatlarini oldindan taxmin qilish imkoniyatiga ega bo‘ladi.

7. Huquqiy aniqlik prinsipini quyidagicha tasniflash mumkin:

1) huquq normalarida aks ettirilishiga ko‘ra: moddiy va protsessual huquqiy aniqlik;

2) huquqiy munosabatlarning voqeligiga ko‘ra: statik va dinamik;

3) qo‘llanish sohasiga ko‘ra: huquq ijodkorligi va huquqni qo‘llashdagi aniqlik;

4) funksiyasiga ko‘ra: kafolatlovchi, barqarorlashtiruvchi, vakolat beruvchi, himoyalovchi, prognoz qiluvchi;

5) vaqt birligida amal qilishiga ko‘ra: doimiy va vaqtinchalik yoki sinxron va diaxronik;

6) amal qilish doirasiga ko‘ra: ichki va tashqi;

7) qo‘llovchi subyektlariga ko‘ra: rasmiy va norasmiy;

8) ko‘lamiga ko‘ra: obyektiv va subyektiv;

9) tartibga solish hajmiga ko‘ra: normativ va individual.

8. Huquqiy aniqlik prinsipining yuridik tabiati quyidagilarda namoyon bo‘ladi:

– huquqiy aniqlik boshqa huquq prinsiplari bilan bir qatorda uni turli ma’nolarda tushunish mumkin bo‘lgan kategoriyadir;

– huquqiy aniqlik prinsipi milliy huquqiy tizim va boshqa huquq oilalarining obyektiv qonuniyatlari hamda mohiyatini aks ettiruvchi, huquq ijodkorligi va yuridik amaliyotda barqarorlik hamda bir xillikka erishish vositasidir;

– huquqiy munosabatlarga ishonch va barqarorlikni ta’minlovchi huquqiy kategoriya sifatida huquqning sifatini obyektiv ravishda tavsiflaydi;

– huquqni integrativ tushunish huquq normalarini qo‘llash tizimini

erkinlashtirishga zamin yaratadi;

– huquqiy noaniqlikdan huquqiy aniqlikka uzluksiz harakat qilishning obyektiv zarurati huquqni qo‘llash bilan shug‘ullanuvchi organlar va shaxslar tomonidan huquqiy munosabatlarning dinamik tabiatiga qat’iy bog‘liq;

– huquq aniqligining muhim belgisi sifatida uning mutlaq yoki nisbiyligi olinib, aniqlikning miqdoriy o‘lchovlarini huquq ijodkorlari tomonidan joriy etishni taqozo qiladi;

– huquqni integrativ tushunish huquqiy aniqlikka nafaqat moddiy huquqning aniqligi, balki protsessual huquqning aniqligi sifatida ham qaraydi;

– huquqni qo‘llash hujjatlari, ayniqsa, sud hujjatlarini qayta ko‘rib chiqishda huquqiy aniqlikka umumiy yondashuv asosida baho berib bo‘lmaydi;

– huquqiy pozitivizm nuqtayi nazaridan tushunish orqali huquqning noaniqligidan aniqligi tomon doimiy harakatini nazariy jihatdan asoslab bo‘lmaydi va bunda har qanday ish amaliy jihatdan samarasiz bo‘lib qoladi;

– huquqiy aniqlik prinsipi nafaqat huquqni qo‘llash jarayonidagi aniqlik, balki huquq ijodkorligida ham talab etiladigan obyektiv zarurat hisoblanadi.

9. O‘zbekiston Respublikasi Konstitutsiyaviy sudi va Oliy Sudining sud amaliyotidagi ta’siri katta ekanligidan kelib chiqib, ular tomonidan chiqarilgan qarorlarning huquqiy tizimdagi o‘rnini aniq belgilash zaruriyati mavjud.

10. Huquqiy aniqlik qonuniy ishonch sifatida mavjud bo‘lishi uchun fuqarolar o‘z huquqlaridan foydalanish imkoniyatiga ega bo‘lishi kerak. Huquqiy aniqlik, avvalo, sudlar tomonidan normalarni aniq qo‘llashda namoyon bo‘ladi. Bunday aniqlikka erishish uchun yagona sud amaliyotini joriy etish, quyi sudlar tomonidan yo‘l qo‘yiladigan kamchiliklarni bartaraf etish kerak.

11. Huquqiy aniqlik prinsipining samaradorligi ikkita asosiy masalani o‘z ichiga oladi. Birinchisi, uning normativ funksiyasiga, ya’ni boshqa normalar yoki inson xatti-harakatlariga nisbatan choralarni ishlab chiqish bilan bog‘liq. Ikkinchisi, uning normativ kuchiga, ya’ni boshqa qoidalarda ziddiyatlar yuzaga kelishi mumkin bo‘lgan taqdirda qanday chora qo‘llashni aniqlashtirishga xizmat qiladi.

12. Huquqiy aniqlik prinsipi huquqiy munosabatlar ishtirokchilarining xatti-harakatlari yuzasidan mezon ishlab chiqadi. Shuningdek, uning tartibga soluvchi ahamiyati shundan iboratki, insonlar xulq-atvorining eng muhim model va ko‘rsatmalarini belgilaydi hamda shaxsga jamiyat va davlat oldidagi mas’uliyati hamda javobgarligi to‘g‘risidagi g‘oyalarni aniqlashga imkon beradi.

13. Huquqiy aniqlik prinsipi yuzasidan ilg‘or xorijiy tajribalar tahlilida Germaniya Federativ Respublikasi Konstitutsiyaviy sudi tomonidan Asosiy qonun bo‘lgan Konstitutsiyaga zid keladigan har qanday qonunni nomuvofiq, deb topish uchun huquqiy aniqlik prinsipidan foydalanish ko‘rib chiqildi. Ushbu holatda huquqiy aniqlik fuqarolarning erkinliklarini cheklashga emas, balki ularning huquqlarini himoya qilishga yordam beradi. Demak, yuqorida keltirib o‘tilgan xulosadan kelib chiqib, O‘zbekiston Respublikasi yuridik amaliyotida ham shunday holatlar yuzaga keladigan bo‘lsa, Konstitutsiyaviy sud masalani huquqiy aniqlik prinsipiga asosan hal qilishi maqsadga muvofiq bo‘ladi.

II. Normativ-huquqiy bazani yanada takomillashtirish bo‘yicha taklif va tavsiyalar

1. O‘zbekiston Respublikasining “Normativ-huquqiy hujjatlar to‘g‘risida”gi Qonunida “prinsip” so‘zi 8 marta qo‘llangan bo‘lsa-da, huquqiy aniqlik prinsipi haqida birorta ma’lumot keltirilmagan. Holbuki, normativ-huquqiy hujjatlarning mazkur prinsip talablariga javob berishi korrupsiyaga qarshi ekspertizada qat’iy belgilangan bo‘lsa-da, bu boradagi qonunda huquqiy aniqlik masalasi ochiq qolgan. Shuningdek, mazkur qonunning 5-moddasida qonunning asosiy prinsiplari, jumladan, 7 ta asosiy prinsiplar sanab o‘tilgan va bular orasida huquqiy aniqlik prinsipi mavjud emas.

Ushbu dissertatsiyaning mazmun-mohiyatidan kelib chiqqan holda, yuqorida qayd etilgan qonunning 5-moddasini quyidagi tahrirda ifodalashni maqsadga muvofiq hisoblaymiz:

“Ushbu Qonunning asosiy prinsiplari quyidagilardan iborat:

konstitutsiyaviylik;

qonuniylik;

jismoniy va yuridik shaxslarning huquqlari hamda qonuniy manfaatlari, jamiyat va davlat manfaatlarini himoya qilish hamda ularning ustuvorligi;

oshkoralik;

ilmiylik;

ijtimoiy munosabatlarni huquqiy jihatdan tartibga solishning tizimliligi va komplekslilig;

huquqiy aniqlik;

ijtimoiy munosabatlarni huquqiy jihatdan tartibga solishning barqarorligi”.

2. “Qonunlar loyihalarini tayyorlash va O‘zbekiston Respublikasi Oliy Majlisining Qonunchilik palatasiga kiritish tartibi to‘g‘risida”gi O‘zbekiston Respublikasining qonunida “prinsip” so‘zi 2 marta qo‘llangan bo‘lib, 13–15-moddalarda xalqaro shartnomalarining prinsiplari (13-modda) hamda xalqaro huquqning umume’tirof etilgan prinsiplari (15-modda) nazarda tutiladi. Fikrimizcha, qonun loyihalarini tayyorlash bo‘yicha asosiy hisoblangan mazkur qonunga huquqiy aniqlik prinsipini kiritish lozim.

Shu sababli, mazkur qonunning 20-moddasini quyidagi tahrirda bayon etishni maqsadga muvofiq deb hisoblaymiz:

“**20-modda. Qonun loyihasi bayoniga taalluqli talablar**

Qonun loyihasi **huquqiy aniqlik** prinsipi asosida ijtimoiy munosabatlarni huquqiy jihatdan tartibga solish, barqarorligi, tizimliligi va komplekslilig talablariga javob berishi shart.

Qonun loyihasi lo‘nda, aniq, oddiy va ravon tilda, normalarni turlicha sharhlashni istisno etadigan tarzda yuridik atamashunoslikda bayon qilinadi. Eskirgan, ko‘p ma’noni anglatadigan so‘z va iboralar, majoziy o‘xshatishlar, sifatlashlar hamda kinoyalar qo‘llanishiga yo‘l qo‘yilmaydi.

Qonun loyihasi matnidagi jumlalar haddan tashqari uzun bo‘lishi mumkin emas”.

3. Amaldagi “O‘zbekiston Respublikasi Konstitutsiyaviy sudi to‘g‘risida”gi qonunda Konstitutsiyaviy sud ishlarini yuritishning asosiy prinsiplari qatorida huquqiy aniqlik prinsipi o‘z ifodasini topmagan. Ma’lumki, demokratik davlatda huquq ustunligini ta’minlash, qarorlarni adolatli, aniq va to‘laqonli bo‘lishi uchun huquqiy aniqlik prinsipining ahamiyati kattadir. Shundan kelib chiqib, mazkur qonunning 20-moddasiga quyidagicha o‘zgartirish kiritish maqsadga muvofiq:

“20-modda. Konstitutsiyaviy sud ishlarini yuritishning asosiy prinsiplari

O‘zbekiston Respublikasi Konstitutsiyasining ustunligi, mustaqillik, kollegiallik, oshkoralik, tomonlarning tortishuvi va teng huquqliligi va **huquqiy aniqlik** konstitutsiyaviy sud ishlarini yuritishning asosiy prinsiplaridir”.

4. “O‘zbekiston Respublikasi Konstitutsiyaviy sudi to‘g‘risida”gi Qonunga yangi 251-moddani kiritish taklifi ilgari surilmoqda. Xususan:

“251-modda. Huquqiy aniqlik

Ushbu prinsip Konstitutsiyaviy sud qarorlarining adolatli, aniq, izchil va to‘laqonli bo‘lishini ta’minlashga xizmat qiladigan muhim asosiy qoidadir”.

5. Amaldagi “Sudlar to‘g‘risida”gi O‘zbekiston Respublikasi Qonunining barcha qoidalarida huquqiy aniqlik prinsipi o‘z ifodasini topmagan. Sud amaliyotida qonun ustunligini ta’minlash, sud qarorlarni adolatli, aniq va to‘laqonli hamda shaffof bo‘lishida huquqiy aniqlik prinsipi muhim. Shundan kelib chiqib, mazkur qonunni 81-modda bilan to‘ldirish taklif etiladi:

“81-modda. Huquqiy aniqlik prinsipi

Huquqiy aniqlik prinsipiga ko‘ra, quyidagi holatlarda qonuniy kuchga kirgan sud qarorini bekor qilish mumkin:

Agar yangi qabul qilingan sud qarori o‘z mohiyatiga ko‘ra, adolat prinsipini buzmagan taqdirda;

Tegishli sud qarorida moddiy va protsessual huquq normalarining jiddiy buzilishi holatlari mavjud bo‘lganda”.

6. Shuningdek, amaldagi “O‘zbekiston Respublikasi Fuqarolik protsessual kodeksida sud ishlarini yuritish prinsiplari qatorida huquqiy aniqlik o‘z ifodasini topmagan. Yuridik amaliyotda huquq ustunligini ta’minlash, huquqiy qarorlarni adolatli, aniq, to‘laqonli hamda shaffof bo‘lishida huquqiy aniqlik prinsipi muhim ahamiyatga ega. Shundan kelib chiqib, mazkur kodeksning 14-moddasiga tegishli o‘zgartirish kiritib, quyidagi tahrirda bayon etish taklif etiladi:

“14-modda. Ishlarni qonunchilik **va huquqiy aniqlik prinsipi** asosida hal qilish

Sud ishlarini O‘zbekiston Respublikasi Konstitutsiyasi va qonunlariga tayangan holda amalga oshirish shart. Sud O‘zbekiston Respublikasining Konstitutsiyasi va qonunlariga zid bo‘lmasa, boshqa qonunchilik hujjatlaridan foydalanish mumkin.

Bahsli vaziyatni tartibga soladigan huquq normalari mavjud bo‘lmagan taqdirda, sud shunga o‘xshash munosabatlarni tartibga soladigan huquq normalarini qo‘llaydi, bunday normalar mavjud bo‘lmaganda esa nizoni qonunlarning umumiy asoslari va mazmunidan kelib chiqqan holda **hamda sud qarorlarini adolatli, aniq va to‘laqonli hamda shaffof bo‘lishini ta’minlash maqsadida** hal etadi.

Sud O‘zbekiston Respublikasining qonuniga yoki xalqaro shartnomasiga muvofiq chet davlatning huquq normalarini ham qo‘llaydi”.

7. Shu bilan birga, amaldagi O‘zbekiston Respublikasining Iqtisodiy protsessual kodeksida sud ishlarini yuritish prinsiplari tarkibida huquqiy aniqlik prinsipi o‘z ifodasini topmagan. Ma’lumki, iqtisodiy masalalarni tegishli sud tomonidan ko‘rib chiqishda nafaqat qonun va sud oldida tenglik, sudyalarning mustaqilligi va ularning qonunga bo‘ysunishi, taraflarning tortishuvi va teng huquqliligi kabi prinsiplarga, balki huquqiy aniqlik prinsipi talablariga rioya qilish ham zarurdir. Chunki ushbu prinsip sud qarorlarini **adolatli, aniq, to‘laqonli hamda shaffof bo‘lishini ta’minlash uchun xizmat qiladi**.

Shundan kelib chiqib, O‘zbekiston Respublikasining Iqtisodiy protsessual kodeksining 13-moddasining quyidagi tahriri keltirildi:

“13-modda. Ishlarni qonunchilik **va huquqi aniqlik prinsipi** asosida hal qilish

Sud ishlarini O‘zbekiston Respublikasi Konstitutsiyasi va qonunlari, boshqa qonunchilik hujjatlari, shuningdek, O‘zbekiston Respublikasining xalqaro shartnomalar asosida hal qiladi.

Ishni ko‘rishda davlat yoki boshqa organning hujjati qonunga muvofiq emasligini, shu jumladan, ushbu hujjatni vakolat doirasidan chetga chiqilgan holda qabul qilinganligini aniqlasa, qonunga muvofiq qaror qabul qiladi.

Bahsli munosabatni tartibga soluvchi huquq normalari mavjud bo‘lmagan taqdirda, sud shunga o‘xshash munosabatlarni tartibga soladigan huquq normalarini qo‘llaydi, bunday normalar ham mavjud bo‘lmaganda, nizoni qonunlarning umumiy asoslari va mazmuniga tayanib, **shuningdek, sud qarorlarini adolatli, aniq, to‘laqonli, shaffof bo‘lishini ta’minlash maqsadida huquqiy aniqlik prinsipi talablaridan kelib chiqib hal qiladi.**

Tadbirkorlik subyektlari va davlat organlari, shu jumladan, huquqni muhofaza qiluvchi hamda nazorat qiluvchi organlar, banklar o‘rtasidagi nizolar bo‘yicha ishlarni ko‘rib chiqish, tadbirkorlik faoliyatini amalga oshirish bilan bog‘liq holda yuzaga keladigan barcha ziddiyatlar va noaniqliklar tadbirkorlik subyektining foydasiga hal etiladi.

Sud O‘zbekiston Respublikasi qonuniga yoki xalqaro shartnomaga muvofiq chet davlatlarning huquq normalarini qo‘llaydi”.

SCIENTIFIC COUNCIL № DSc. 07/30.12.2019.Yu.22.02
FOR AWARDING OF THE SCIENTIFIC DEGREES
AT TASHKENT STATE UNIVERSITY OF LAW

TASHKENT STATE UNIVERSITY OF LAW

YUSUPOV ILKHOMJON IBODILLAYEVICH

PRINCIPLE OF LEGAL CERTAINTY: THEORETICAL-LEGAL ISSUES

12.00.01. – Theory and history of state and law.
The history of legal doctrines

Doctoral (PhD) dissertation abstract on legal sciences

Tashkent – 2025

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The defense of the dissertation will be held on November 15, 2025 at 14:00 at the Session of the Scientific Council DSs.07/30.12.2019.Yu.22.02 at the Tashkent State University of Law (Address: 100047, Sayilgokh street, 35. Tashkent city. Phone: (99871) 233-66-36; Fax: (99871) 233-37-48; e-mail: info@tsul.uz).

The doctoral dissertation is available at the Information Resource Center of Tashkent State University of Law (registered under No.1436), (Address 100047, Amir Temur street, 35. Tashkent city. Phone: (99871) 233-66-36).

The abstract of the dissertation distributed on October 27, 2025.

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INTRODUCTION (abstract of PhD thesis)

The actuality and relevance of the dissertation theme. Substantial work is being carried out in developed rule-of-law states worldwide to implement democratic principles and universal values in practice. Special attention is devoted to strengthening the principle of legal certainty as an indispensable condition for the effective protection of human rights and for maintaining the stability of legal systems. The 16th goal of the UN Sustainable Development Goals to be achieved by 2030 explicitly sets the objective of "promoting peaceful and inclusive societies for sustainable development, providing access to justice for all, and building effective, accountable and inclusive institutions at all levels." The activities of the UN Development Programme in supporting democratic governance in countries around the world further emphasize the need to strengthen the legal foundations in this area. In the "Rule of Law" report approved by the Venice Commission in March 2011, the principle of legal certainty is recognized as a fundamental element of the rule of law, while the European Court of Human Rights has consistently acknowledged the principle of legal certainty in its decisions as a key element of the rule of law and protection of human rights. These circumstances demonstrate the necessity for in-depth scientific and theoretical research of the principle of legal certainty in our country and improvement of the mechanisms for its practical application.

Globally, research priorities in this field focus on: implementing effective mechanisms for constitutional protection of the legal certainty principle; improving methodologies to ensure precision in legislative techniques and legal language; establishing unified standards for interpreting legal norms; strengthening procedural safeguards for legal certainty in judicial practice; applying legal certainty requirements to legal practice in the context of digital technologies; defining criteria to evaluate the accuracy of legal documents created with artificial intelligence; enhancing the clarity and predictability of administrative regulations and rules; refining accountability mechanisms for violations of the legal certainty principle; and reinforcing citizens' right to legal certainty as a means of judicial protection.

In recent years, Uzbekistan has undertaken major reforms to enhance the effectiveness of ensuring legal certainty, improve the quality of legislation, ensure the precision of regulatory legal acts, and refine mechanisms for the uniform application of legal norms in judicial practice. Nevertheless, in the World Justice Project's 2023 Rule of Law ranking, our country ranked 78th out of 142 countries, indicating the need for additional measures in the field of legal certainty. The "Development Strategy of New Uzbekistan" defines "ensuring the rule of law, increasing the effectiveness of judicial and law enforcement agencies, improving the anti-corruption system, and deepening administrative reforms" as priority areas. These tasks underscore the relevance of studying the principle of legal certainty from a theoretical and methodological perspective, improving the quality of lawmaking and legal practice, guaranteeing human rights, and enhancing the level of rule of law through the effective application of legal certainty in practice.

This dissertation research, in its content and objectives, contributes to the implementation of the Constitution of the Republic of Uzbekistan (2023), the Law "On Normative Legal Acts" (2021), the Law "On the Procedure for Preparing Draft Laws and Submitting Them to the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan" (2006), the Law "On Courts" (2021), as well as Presidential Decree No. UP-60 of January 28, 2022 "On the Development Strategy of New Uzbekistan for 2022–2026," Presidential Decree No. UP-158 of September 11, 2023 "On the Strategy 'Uzbekistan-2030'," and Presidential Decree No. UP-5505 of August 8, 2018 "On Approving the Concept for Improving Lawmaking Activities," along with other relevant normative legal acts of the Republic of Uzbekistan.

Correspondence **of the research to the priority directions of science and technology development of the republic.** The dissertation research aligns with the priority direction of the republic's science and technology development: "Formation of a system of innovative ideas and ways of their implementation in the social, legal, economic, cultural, spiritual and educational development of the information society and a democratic state."

Level of study of the problem. Scientific research and studies related to the impact of the principle of legal certainty on legal practice in the Republic of Uzbekistan and the improvement of legislation in this area can be analyzed in the following directions:

Firstly, it should be particularly emphasized that scientific and theoretical issues related to the principle of legal certainty in national jurisprudence have been studied from the perspective of the rule of law. Specifically, the research of M. Akhmedshayeva, I. Bekov, A. Karimov, I. Kudryavtsev, Kh. Mamatov, A. Mukhammadiyev, M. Najimov, J. Nematov, Z. Islamov, H. Odilkoriyev, A. Saidov, Sh. Saydullayev, B. Toshev, R. Khakimov, A. Khashimkhonov, Kh. Khayitov, B. Khodjayev and other scholars in this field can be cited as examples[1].

Furthermore, numerous scientific studies in legal science have been conducted on the principles of law and related issues. One such study is F.M. Mukhitdinov's dissertation on "Problems of Implementing the Adversarial Principle in Judicial Proceedings of Criminal Cases" for the degree of Candidate of Legal Sciences (1999). Other notable research includes A.A. Mukhammadiev's "The Application of Civil Law Principles in Market Relations" (2006), G.K. Botirov's "Issues of the Principle of Humanism in the Liberalization of Criminal Legislation" (2006), D.Y. Khabibullaev's "Principles of Civil Procedural Law and Problems of their Implementation in Judicial Practice" (2007), Sh.U. Yakubov's "The Formation of Legal Values and Principles in the Legal System of Uzbekistan" (2008), N.I. Khairiev's "Problems of Implementing the Principle of Establishing Truth in Criminal Proceedings" (2011), A.A. Mukhammadiev's "Theoretical and Practical Problems of Civil Law Principles" (2012), I.B. Djurayev's "The Principle of Language in Criminal Proceedings" (2012), A.Sh. Sodikov's "Requirements and Principles for Information Used in the Norm-Creating Process" (2021), and F.B. Makhmudov's "Ethical Principles in Preventing Conflicts of Interest in Civil

[1] Mazkur olimlar ishlarining to'liq ro'yxati dissertatsiyaning foydalanilgan adabiyotlar ro'yxatida ko'rsatilgan..

Service" (2021). Additionally, B.M. Kasimov's dissertation for the degree of Doctor of Philosophy in Law (2021) addresses the principle of judicial independence, while Kh.U. Turdiyev's dissertation for the same degree (2021) explores the principle of separation of powers. O.R. Fayziyev's doctoral thesis (2021) examines the fundamental principles of exercising the right to appeal and considering appeals. Sh.R. Khayitov's dissertation for the degree of Doctor of Philosophy in Law (2022) focuses on the specific purposefulness of conducting legal experiments. Sh.Kh. Bahronov's research (2022) investigates the stages and basic principles of environmental expertise for draft normative legal acts. N.S. Pulatova's work (2022) analyzes the principles of legality, validity, and fairness in judicial acts. A.I. Toshpulatov's research (2023) addresses theoretical and practical issues of criminal law principles, while B.P. Boymurodov's scientific inquiry (2023) explores the main principles of citizens' participation in the norm-creating process. However, to date, theoretical issues related to the principle of legal certainty in national legal science have not been studied comprehensively in a monographic format.

Secondly, despite the fact that the principle of legal certainty has been studied to a certain extent by scientists from CIS countries such as A.A. Ivanov, A.V. Demin, A.V. Malko, A.S. Kosach, V.V. Yershov, V.M. Baranov, V.N. Kartashov, V.N. Kudryavtsev, G.A. Gadzhiev, G.S. Kelina, E.V. Vaskovsky, I.A. Pokrovsky, I.S. Dakaryev, M.V. Presnyakov, N.A. Arapov, N.A. Vlasenko, N.I. Matuzov, N.S. Bondar, R.K. Rusinov, S.A. Ivanov, S.V. Potapenko, S.E. Bodrov, S.S. Alekseev, T.N. Nazarenko, Yu.A. Tikhomirov, Y.N. Starilov[2], the issues of adherence to legal certainty by courts in applying the law in countries belonging to the Romano-Germanic legal family have not been fully investigated.

Thirdly, scholars from the USA, Europe, and Latin America, such as Alberto Xavier, Andreas von Arnauld, Anne-Laure Valembois, Arcos Ramírez, Barros Carvalho, Benjamin Cardozo, Bernd Mertens, Christoph Gusy, Eros Roberto Grau, Federico Arcos Ramnez, Ferrero Lapatza, Franz Scholz, Friedrich Carl von Savigny, Gianmarco Gometz, Guido Alpa, J. Meyer, J. Mezquita de Cacho, Jerome Frank, Katharina Sobota, Misabel de Abreu Machado Derzi, Oscar Adolf Germann, Philip Kunig, S.J. Shapiro, Stefano Bertea, Vom Beru, Willy Zimmer, W. Blackstone, have studied the principle of legal certainty as an integral part of the principle of the rule of law and legality, while in our country, insufficient attention has been paid to the existing problems related to this principle.

Analysis of the above-mentioned scientific works shows that the theoretical and practical issues of applying the principle of legal certainty in lawmaking and increasing the effectiveness of its application in legal practice should be comprehensively studied based on the legislation of the Republic of Uzbekistan, as well as advanced foreign experiences.

Connection of the dissertation research with the research work plans of the higher educational institution where the dissertation was carried out. The research topic was included in the research work plan of Tashkent State University of Law and was conducted within the framework of the work plan on "Improving

[2] Mazkur olimlar ishlarining to‘liq ro‘yxati dissertatsiyaning foydalanilgan adabiyotlar ro‘yxatida ko‘rsatilgan..

the provision of fundamental human rights in the context of deepening democratic reforms."

The purpose of the research is to conduct a comprehensive scientific and theoretical study of the principle of legal certainty and to develop proposals and recommendations aimed at increasing the effectiveness of legislation and law enforcement practice in this area.

Tasks of the dissertation work:

Analyze the content and characteristics of the principle of legal certainty;

Conduct scientific research on the concepts of legal certainty and uncertainty and their legal nature;

Provide a detailed explanation of the functions of the principle of legal certainty;

Identify the regulatory and legal foundations of the principle of legal certainty;

Conduct a scientific study of the relationship between the principles of the rule of law and legal certainty;

Analyze the significance of the principle of legal certainty in the application of law;

Study of advanced foreign practices in the field of the principle of legal certainty;

Development of relevant conclusions, proposals, and recommendations through analyzing the principle of legal certainty in the Republic of Uzbekistan.

The object of the research is the system of legal relations associated with understanding and applying the principle of legal certainty in the Republic of Uzbekistan.

The subject of the research comprises normative legal acts related to the implementation of the principle of legal certainty in the Republic of Uzbekistan, law enforcement practices, legislation and legal practices of advanced foreign countries, internationally recognized standards, conceptual approaches, scientific and theoretical views, and legal categories existing in the scientific literature.

Research Methods. The research employs methods such as historical-legal, logical, analysis, synthesis, induction, deduction, comparative-legal, legal modeling, as well as a comprehensive study of scientific sources.

The scientific novelty of the research is as follows:

The necessity of granting the authorized body the right to clarify the norms of documents on competition impact assessment and obtain relevant explanations on them has been substantiated, with the aim of strengthening the control function of the authorized body in the field of competition impact assessment and improving the mechanism for clarifying legal norms;

The need to implement a mechanism for disseminating the texts of regulatory legal acts and materials aimed at explaining them through a Unified Legal Information Exchange System has been substantiated, with the purpose of ensuring openness and transparency of information related to regulatory legal acts and expanding public access to legal norms;

To improve the quality of scientific expertise and ensure the future effectiveness of regulatory legal acts, it has been justified that expert opinions should

include an analysis of other issues identified during the scientific expertise that may arise as a result of adopting the regulatory legal act;

The necessity of granting the authority to the body adopting the regulatory legal act to send an inquiry to the organization that conducted the scientific expertise for clarification of proposals, objections, and comments provided in the conclusion has been substantiated, with the aim of improving the quality and accuracy of scientific expertise conclusions and creating an effective mechanism for cooperation between organizations;

The practical results of the study are as follows:

A comprehensive definition of the principle of legal certainty has been developed, taking into account its role and significance in the national legal system, ensuring the harmony between the substantive and procedural aspects of the principle;

The distinctive features of the principle of legal certainty were revealed, including important characteristics such as normativity, stability, predictability, comprehensibility, and consistency;

The principle of legal certainty necessitates clear and unambiguous expression of legal norms, and mechanisms for eliminating contradictions and conflicts between norms in regulating legal relations were substantiated;

The functional significance of the principle of legal certainty in improving the quality of lawmaking, ensuring uniformity in law enforcement practice, strengthening the stability of court decisions, and effectively protecting citizens' rights and legitimate interests was analyzed from scientific and practical perspectives;

The essence of the principle of legal certainty as a constitutional guarantee was highlighted, along with its procedural and institutional mechanisms for ensuring human rights;

The manifestation of the principle of legal certainty as an ideal model of legal regulation was substantiated, as well as its role in enabling citizens to plan their legal actions and foresee their consequences;

The legal nature of the principle of legal certainty and its interrelation with other legal principles - legality, justice, and equality - were comprehensively revealed;

Practical proposals and recommendations were developed for introducing specific amendments and additions to certain legislative acts of the Republic of Uzbekistan aimed at strengthening the principle of legal certainty.

Reliability of research results. The general theoretical conclusions drawn at the end of the study and proposals aimed at improving legislation are substantiated through the analysis of theoretical views, national legislative norms, and law enforcement practices. The reliability of the research results is determined by the methods used in the work, the scientific and theoretical approaches employed within its framework being derived from official sources, mutual analysis of international experience, international standards, and national legislation sources, practical application of conclusions, proposals, and recommendations, publication of results in leading national and foreign journals, and approval by authorized bodies.

Scientific and practical significance of the research results. The scientific significance of the research results is evident in the potential use of its scientific-theoretical conclusions, proposals, and recommendations for conducting further research on improving the organizational and legal basis for implementing the principle of legal certainty, interpreting relevant legislative norms, enhancing national legislation, as well as teaching and further enriching the disciplines of "Constitutional Law," "Theory of State and Law," "Normmaking," and "Legal Technique" from a scientific and theoretical perspective.

The practical significance of the research results is determined by the possibility of their use in improving the regulatory legal acts defining the principle of legal certainty in the Republic of Uzbekistan, enhancing law enforcement practices, and in the activities of law-making entities.

Implementation of the research results. Based on the scientific results obtained on improving the theoretical and legal foundations of the principle of legal certainty:

The proposal that the authorized body has the right to clarify the norms of documents on assessing the impact on competition and obtain relevant explanations on them was taken into account when developing paragraph 3 of clause 22 of the Regulation "On the procedure for assessing the impact of regulatory legal acts and their drafts on competition," approved by Resolution No. 694 of the Cabinet of Ministers of the Republic of Uzbekistan dated December 29, 2023 (Act of the Department of Legal Support under the Cabinet of Ministers of the Republic of Uzbekistan dated November 7, 2024 No. 12-15-80). Taking this proposal into account will serve to clarify the norms of the documents on assessing the impact on competition and elucidate the rights to obtain relevant explanations on them;

The proposal to implement the delivery of normative legal act texts and materials aimed at explaining them through the Unified Legal Information Exchange System was taken into account in the development of paragraph 37 of the "Program of Measures to Enhance Legal Culture in Society for 2024-2025," approved by Resolution No. 588 of the Cabinet of Ministers of the Republic of Uzbekistan dated September 18, 2024 (as evidenced by Act No. 12-15-80 of the Department of Legal Support under the Cabinet of Ministers of the Republic of Uzbekistan dated November 7, 2024). The implementation of this proposal will facilitate the introduction of a system for transmitting the texts of normative legal acts and materials aimed at their explanation through the Unified Legal Information Exchange System.

The proposal to reflect the analysis of other issues identified during the scientific examination that may arise as a result of adopting a normative legal act was taken into account in developing paragraph 8 of clause 16 of the Regulation on the Procedure for Conducting Scientific Examination of Draft Regulatory Legal Acts, approved by Resolution No. 29 of the Cabinet of Ministers dated January 22, 2025 (as evidenced by Act No. 30 dated April 26, 2025, of the Information-Analytical and Legal Support Department of the Secretariat of the Prime Minister of the Republic of Uzbekistan). The implementation of this proposal will serve to

analyze various potential future situations identified during the scientific examination of regulatory legal acts.

The proposal that the body adopting the normative legal act may send a request to the organization that conducted the scientific examination to clarify the suggestions, objections, and comments provided in the conclusion was taken into account in developing paragraph 23 of the Regulation on the Procedure for Conducting Scientific Expertise of Draft Regulatory Legal Acts, approved by the Resolution of the Cabinet of Ministers No. 29 dated January 22, 2025 (Act № 30 dated April 26, 2025 of the Information-Analytical and Legal Support Department of the Secretariat of the Prime Minister of the Republic of Uzbekistan). The implementation of this proposal serves to strictly define the authority of the body adopting the normative legal act to send a request to the organization that conducted the scientific examination in order to clarify the suggestions, objections, and comments given in the conclusion.

Approbation of the research results. The results of this study were discussed at 4 scientific conferences, including 2 international and 2 republican scientific-practical conferences, round tables, and seminars.

Publication of research results.A total of 17 scientific works have been published on the topic of the dissertation, including5 articles in national publications recommended by the Higher Attestation Commission under the Ministry of Higher Education, Science and Innovation of the Republic of Uzbekistan for publishing the main results of dissertations, and 8 articles in foreign scientific journals.

The structure and volume of the dissertation. The dissertation consists of an introduction, three chapters containing 8 paragraphs, a conclusion, and a list of references. The volume of the dissertation is 154 pages.

MAIN CONTENT OF THE DISSERTATION

The Introduction of the dissertation outlines the relevance and necessity of the research topic and its alignment with the priority directions of science and technology development in the Republic of Uzbekistan. It also provides a review of foreign scientific studies on the subject, discusses the extent to which the problem has been investigated, and highlights the connection of the topic with the research agenda of the higher education institution where the dissertation was carried out. Furthermore, the Introduction sets out the goals and objectives of the study, its object and subject, the methods employed, the scientific novelty and practical outcomes, the reliability of the research findings, their scientific and practical significance, and the possibilities for practical implementation. Finally, it includes information on approbation, publication of research results, as well as the volume and structure of the dissertation.

The first chapter of the dissertation is entitled "**Theoretical and Methodological Aspects of the Principle of Legal Certainty**," which analyzes the content and features of the principle of legal certainty, the concepts of certainty and uncertainty in law and their legal nature, as well as the functions of the principle of legal certainty.

Although the principle of legal certainty has been studied to some extent by numerous scholars in national legal science from the perspective of the rule of law, including A. Karimov, A. Saidov, B. Toshev, B. Khodjaev, J. Ne'matov, I. Kudryavtsev, M. Akhmedshaeva, M. Najimov, R. Khakimov, S. Mukhammadiev, Kh. Mamatov, Kh. Khaitov, H. Odilkoriev, Sh. Saidullaev, F.M. Mukhitdinov, A.A. Mukhammadiev, G'.K. Botirov, D.Y. Khabibullaev, Sh.U. Yakubov, N.I. Khairiev, A.A. Mukhammadiev, I.B. Djuraev, A.Sh. Sodikov, B.M. Kosimov, as well as scholars from CIS countries such as A.A. Ivanov, A.V. Demin, A.V. Malko, A.S. Kosach, V.V. Yershov, V.M. Baranov, V.N. Kartashov, V.N. Kudryavtsev, G.A. Gadjiev, G.S. Kelina, E.V. Vaskovsky, I.A. Pokrovsky, I.S. Dakarev, M.V. Presnyakov, N.A. Arapov, N.A. Vlasenko, N.I. Matuzov, N.S. Bondar, R.K. Rusinov, S.A. Ivanov, S.V. Potapenko, S.E. Bodrov, S.S. Alekseev, T.N. Nazarenko, Yu.A. Tikhomirov, and E.N. Starilov, the issues of adherence to legal certainty in the application of legal precedents by courts in countries belonging to the Romano-Germanic legal family have not been fully researched.

In addition, based on the analysis of the opinions of scholars from the USA, Europe, and Latin America, including Alberto Xavier, Andreas von Arnauld, Anne-Laure Valembois, Arcos Ramírez, Barros Carvalho, Benjamin Cardozo, Bernd Mertens, Christoph Gusy, Eros Roberto Grau, Federico Arcos Ramírez, Ferrero Lapatza, Franz Scholz, Friedrich Carl von Savigny, Gianmarco Gometz, Guido Alpa, J. Meyer, J. Mezquita de Cacho, Jerome Frank, Katharina Sobota, Misabel de Abreu Machado Derzi, Oscar Adolf Germann, Philip Kunig, S.J. Shapiro, Stefano Bertea, Vom Beru, Willy Zimmer, and W. Blackstone, the following author's definition of the concept of the principle of legal certainty has been developed:

"The principle of legal certainty is the main ideological rule that, as a means of ensuring the rule of law in legal practice, including lawmaking and law enforcement activities, ensures the clarity, consistency, and completeness of legal norms and legal decisions for their fairness."

The characteristics of the principle of legal certainty are also described, specifically:

clear and uniform understanding of normative legal acts;

proper public disclosure of regulatory legal acts and law enforcement documents;

clarity and strict orientation of law enforcement documents towards implementation;

establishing the reliability and stability of legal interests and limiting the retroactive effect of normative legal acts.

Furthermore, the following conclusions were drawn about the principle of legal certainty:

Understanding that legal certainty is a defining element of law is based on the importance of the principle of legal certainty in the creation and implementation of legal norms. In this sense, legal certainty as a defining element implies its scientific significance as a legal principle. It can be seen that these observations are intended to distinguish several methods of analyzing legal certainty, to emphasize that they

do not eliminate the exact relationship or even semantic interdependence between these methods, and conversely, that the interdependence of these three concepts does not prevent their differentiation.

All the above observations aim to demonstrate that legal certainty is an indispensable condition for viewing the same object from different perspectives, as well as for delineating the object and the analyzed point of view, and for effectively understanding them.

In this research, legal certainty is examined firstly as a principle, that is, as a directive aimed at legislative, judicial, and executive authorities, and secondly, as a factor contributing to the reliability and stability of the legal order. Its role and significance in legal practice are also investigated. In particular, in legal practice, disregarding the rule of "ex tunc" (retroactive) application of previous legal norms and their effectiveness in law enforcement decisions leads to an unmeasured amount of uncertainties in legal relations, which has not been "quantified" in national scientific literature or legal monitoring. Therefore, introducing units of measurement for legal certainty serves to eliminate certain contradictions and shortcomings in practice. Additionally, the legal effectiveness of the principle of legal certainty encompasses two main issues. The first relates to its normative function, that is, the method of producing effects in relation to other norms or human behavior. The second concerns its normative force, that is, what measures should be taken when it conflicts with other normative provisions.

Summarizing the above scientific and theoretical analysis, a comprehensive conclusion has been reached that the legal nature of the principle of legal certainty is manifested in the following:

1) legal certainty is a category that, like other legal principles, can be understood in various ways;

2) The principle of legal certainty is a means of achieving stability and uniformity in lawmaking and legal practice, reflecting the objective regularities and essence of the national legal system and other legal families;

3) It objectively characterizes the qualitative state of law as a legal category that ensures trust and stability in legal relations;

4) From the perspective of integrative legal understanding, it creates the foundation for liberalizing the system of applying legal norms;

5) The objective necessity of law's continuous movement from uncertainty to certainty is strictly dependent on the nature of dynamic legal relations as interpreted by law enforcement agencies and individuals;

6) As an important feature of legal certainty, its absolute or relative nature is significant, which necessitates the introduction of quantitative measurements of certainty by the lawmaker;

7) From the standpoint of integrative legal understanding, legal certainty requires not only the certainty of substantive law but also the certainty of procedural law;

8) It is impossible to create a unified approach to legal certainty when reviewing law enforcement documents, especially judicial documents;

9) From the perspective of legal positivism, the constant movement from legal uncertainty to legal certainty cannot be theoretically justified, and in practice, such efforts are ineffective;

10) The principle of legal certainty is an objective necessity required not only in the process of law enforcement but also in lawmaking.

It is known that from the perspective of the functions of the principle of legal certainty as a specific legal principle, we must focus on issues such as how it influences legal regulation, its place and significance in the legal system. In particular, to fully understand and analyze the essence of the principle of legal certainty, it is necessary to pay attention to its significance and content in various schools of law.

Supporters of the natural law school, in terms of legal certainty, primarily focus on the objectivity of law and its independence from the will of the lawmaker (bodies and officials authorized to adopt normative legal acts).

From the perspective of the integral approach, law is a system of relevant legal norms and principles. They determine either the objectively established will of the state or moral foundations, i.e., principles, developed by society as a result of centuries of experience in development.

The existence in law of two independent means of regulating relations, norms and principles of law, does not negate their possession of functions.

Based on the analysis of the opinions of national legal scholars, the following views are put forward regarding the functions of the principle of legal certainty:

Along with other principles of law, the principle of legal certainty also extensively utilizes the regulatory function.

The stabilizing function of the principle of legal certainty is common for individualizing and concretizing rights and obligations, as well as for the stages of law enforcement and implementation.

At the law enforcement stage, the regulatory role of the principle of legal certainty is manifested both in performing functions inherent to all principles of law, namely interpretation, as well as in eliminating gaps.

An example of the interpretative function of the principle of legal certainty can be cited.

When implementing the regulatory function of the principle of legal certainty in regulating legal relations, it is necessary to study the prospects for introducing judicial precedent in our country.

At the same time, it is advisable to distinguish the normative control function as a separate function of the principle of legal certainty.

In the second chapter of the dissertation, entitled **"The Role of the Principle of Legal Certainty in the Application of Law,"** the researcher, along with analyzing the opinions of legal scholars on the topic, drew independent conclusions and developed proposals and recommendations in the study of issues such as the regulatory and legal foundations of the principle of legal certainty, the manifestation of the principle of legal certainty as a requirement of the rule of law, and the importance of the principle of legal certainty in the application of law. Notably, although the word "principle" is used 8 times in the Law of the Republic of

Uzbekistan "On Normative Legal Acts," information on the principle of legal certainty is not provided. It is pointed out that while it is strictly mandated that the compliance of normative legal acts with the requirements of this principle be verified during anti-corruption examinations, the main law in this area leaves the issue of legal certainty unaddressed. Furthermore, based on the essence of this dissertation, it is proposed to reformulate Article 5 of the aforementioned law as follows:

"The fundamental principles of this Law are:

constitutionality;

legality;

protection and prioritization of the rights and legitimate interests of individuals and legal entities, as well as the interests of society and the state;

transparency;

scientific approach;

systematic and comprehensive legal regulation of social relations;

legal certainty;

stability of legal regulation of social relations."

Additionally, the word "principle" is used twice in the Law of the Republic of Uzbekistan "On the Procedure for Preparing Draft Laws and Submitting them to the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan." Articles 13 and 15 refer to the principles of international treaties (Article 13) and generally recognized principles of international law (Article 15). The law also states the appropriateness of incorporating the principle of legal certainty into this fundamental law on draft legislation preparation:

"**Article 20. Requirements for Draft Law Statement**

The draft law must adhere to the principle of legal certainty and meet the requirements of stability, systematicity, and comprehensiveness in the legal regulation of social relations.

The draft law shall be presented in concise, clear, simple, and fluent language, adhering to legal terminology and avoiding various interpretations of the norms. The use of outdated and ambiguous words and phrases, figurative comparisons, epithets, and irony is not permitted.

Excessively long sentences in the text of the draft law are not allowed."

Furthermore, the application of the principle of legal certainty in law enforcement processes serves to ensure legality and the rule of law by the enforcing entity, particularly elevating the status of the judiciary and laying the foundation for guaranteeing true judicial independence. Notably, it has been observed that while the transition to using legal precedent as a source of law in our country has several positive aspects, it also possesses some negative features. Nevertheless, this transition serves to ensure the rule of law and recognize human rights and freedoms as the highest value.

Furthermore, it is essential for law enforcement officials that the requirements of the rule of law are expressed with sufficient clarity. In practice, they apply not the law in abstract terms but specific legal norms, and therefore require precision in those norms rather than in the law as a whole. This is because disputed relations can only

be resolved on the basis of a concrete legal norm. Where such a norm is lacking, the law enforcement official should rely on established judicial practice in interpreting ambiguous provisions or on decisions of the Plenum of the Supreme Court. The application of the principle of legal certainty in the law enforcement process thus serves to uphold legality and the rule of law. It is particularly important for strengthening the authority of the judiciary and for creating the institutional foundation necessary to guarantee genuine judicial independence. In this respect, the gradual transition to the use of judicial precedent as a source of law in Uzbekistan—despite its positive as well as negative aspects—contributes to ensuring the rule of law and to affirming human rights and freedoms as the highest social value.

The third chapter of the dissertation, entitled **"Peculiarities of Implementing the Principle of Legal Certainty in Legal Practice,"** examines specific experiences of legal certainty in foreign countries based on the analysis of advanced international practices and the challenges of implementing the principle of legal certainty in Uzbekistan's legal practice. The chapter comprehensively analyzes the issues of implementing this principle in the legal practice of our republic and draws the following conclusions:

Although it is recognized that legal uncertainties and contradictory situations may occur in legislation or legal practice, and it is established that such uncertainties should be resolved in favor of individuals, the mechanisms for preventing or eliminating them by courts are not fully regulated. The following problems of applying the principle of legal certainty in the context of Uzbekistan are highlighted:

Firstly, due to the unique nature of the legal system and legislation, the legislative framework of our country is complex, and the use of legal certainty as a source of law is not permitted. Furthermore, the abundance of laws and regulations can lead to confusion and hinder the application of the principle of legal certainty;

Secondly, considering that legal certainty is primarily implemented by law enforcement entities, the interpretation and application of laws by administrative bodies and courts may vary. Lack of uniformity in legal interpretations can undermine legal certainty, as individuals may obtain different outcomes in similar cases;

Thirdly, there are issues related to legal awareness and legal culture, and it is necessary to instill confidence that legal certainty will contribute to our country's development by changing the perspectives of authorized officials in this regard. If we do not initiate reforms with high-ranking officials, it is unlikely that lower-ranking officials will achieve practical results in this area;

Fourthly, it is assumed that the existence of legal ambiguities in juridical practice may lead to corruption risks. Indeed, instances of undesirable influence of corruption factors can undermine the integrity and fairness of the legal system and result in the loss of public trust.

In this regard, referring to advanced foreign experience, the dissertation author presents the following considerations:

According to the conclusions of the European Court of Human Rights, one of the fundamental aspects of the rule of law is the principle of legal clarity.

In European legal literature, the concept of legal certainty is associated with the concept known as "legal security."

The European Court of Human Rights notes that national legislation should be based on the requirements of legal certainty.

In particular, the Convention stipulates that "a normative legal act must serve as a guide for citizens regarding legal behavior and its consequences, and be sufficient when taking into account the legal norms applicable in a given situation."

Applying the principle of legal certainty in the sphere of legislative activity aims to ensure the high quality of fundamental legal norms and, consequently, the effectiveness of the entire legal system.

In this regard, referring to advanced foreign experience concerning the principle of legal certainty, it is recognized that the Constitutional Court of the Federal Republic of Germany uses this principle to declare any law contradicting the Constitution (the Basic Law) as inconsistent. In such cases, legal certainty serves not to restrict citizens' freedoms but to protect their rights. Based on this conclusion, it is noted that if similar situations arise in the legal practice of the Republic of Uzbekistan, it would be advisable for the Constitutional Court to resolve such issues based on the principle of legal certainty.

Additionally, based on the experiences of countries belonging to the Romano-Germanic legal family, particularly Brazil, Germany, and Spain, in utilizing the principle of legal certainty in both lawmaking and law enforcement, it is proposed that it would be advisable to effectively use this principle in lawmaking and law enforcement in our country as well.

Furthermore, cases from the European Court of Human Rights, international conventions, and universally recognized international treaties acknowledge that the principle of legal certainty plays a crucial role in ensuring the rule of law and guaranteeing human rights, and that this principle is applied in both the creation of legal norms and the application of law.

CONCLUSION

The scientific and theoretical analysis of the principle of legal certainty and the resolution of the tasks set for this study have led to the following conclusions and served as a basis for putting forward proposals and recommendations for further improvement of the regulatory framework:

I. Scientific and theoretical conclusions

1. "The principle of legal certainty, as a means of achieving the rule of law, is the main guiding principle concerning clarity, consistency, and comprehensiveness that ensures fairness of normative legal acts and law enforcement documents in legal practice, including in the process of lawmaking and law implementation." The principle of legal certainty is considered as a means of guaranteeing other values such as freedom, property, and dignity.

2. The principle of legal certainty, by its essence, encompasses the following main aspects:

clear, unambiguous, and unified interpretation of the content of normative legal acts;

official publication of normative legal acts and law enforcement documents in the prescribed manner;

clarity of law enforcement documents, their practical orientation, and service to the effective implementation of law;

guaranteeing the reliability and stability of legal interests, as well as implementing amendments to regulatory legal acts in compliance with certain restrictions.

3. The principle of legal certainty requires the clarity and transparency of legal norms and excludes conflicts with existing legal norms in the regulation of legal relations.

If a specific normative legal act has formulated the established rules of conduct unclearly and is not sufficiently precise for understanding and application, it cannot be considered in accordance with the principle of legal certainty.

4. The principle of legal certainty, by clarifying the principles and norms of law that have legal force from the perspective of positive law, enables the achievement of effectiveness in the processes of lawmaking and law enforcement. It also allows for increasing the stability of adopting certain judicial acts and legal practices, as well as ensuring the rights and legitimate interests of participants in judicial proceedings.

5. The principle of legal certainty can be interpreted as a legal guarantee. Legal norms should create sufficient opportunities for individuals to protect their rights and freedoms through administrative procedures or judicial processes. These opportunities provide citizens with the right to protection from unlawful actions and decisions of state authorities or officials, particularly in administrative courts.

6. Legal certainty manifests itself as an ideal state of regulation through legal norms or normative legal acts. Under such conditions, citizens have the opportunity to clearly understand the content of the norms they are subject to and anticipate the legal consequences of their actions.

7. The principle of legal certainty can be classified as follows:

1) According to their reflection in legal norms: substantive and procedural legal certainty;

2) According to the reality of legal relations: static and dynamic;

3) According to the area of application: certainty in lawmaking and law enforcement;

4) According to function: guaranteeing, stabilizing, authorizing, protecting, forecasting;

5) According to the duration of validity: permanent and temporary or synchronic and diachronic;

6) According to the scope of application: internal and external;

7) According to the applying subjects: formal and informal;

8) According to scale: objective and subjective;

9) According to the scope of regulation: normative and individual.

8. The legal nature of the principle of legal certainty is manifested in the following:

– Legal certainty, along with other legal principles, is a category that can be understood in various ways;

– The principle of legal certainty is a means of achieving stability and uniformity in lawmaking and legal practice, reflecting the objective regularities and essence of the national legal system and other legal families;

– It objectively characterizes the quality of law as a legal category that ensures trust and stability in legal relations;

– An integrative understanding of law creates the basis for liberalizing the system of applying legal norms;

– The objective necessity of continuous movement from legal uncertainty to legal certainty is strictly dependent on the dynamic nature of legal relations as perceived by law enforcement agencies and individuals;

– The absolute or relative nature of law is considered an important characteristic of its precision, which necessitates the introduction of quantitative measures of accuracy by lawmakers;

– An integrative understanding of law views legal certainty not only as the precision of substantive law but also as the certainty of procedural law;

– When reviewing law enforcement documents, especially judicial documents, legal certainty cannot be assessed based on a general approach;

– From the perspective of legal positivism, it is theoretically impossible to justify the constant movement of law from uncertainty to certainty, and in this case, any effort becomes practically ineffective;

– The principle of legal certainty is not only a requirement for precision in the law enforcement process but also an objective necessity in lawmaking.

9. Given the significant influence of the Constitutional Court and the Supreme Court of the Republic of Uzbekistan in judicial practice, there is a need to clearly define the place of their decisions within the legal system.

10. For legal certainty to exist as a legitimate expectation, citizens must have the opportunity to exercise their rights. Legal certainty is manifested, primarily, in the precise application of norms by the courts. To achieve such clarity, it is necessary to establish unified judicial practice and eliminate shortcomings that are permitted by lower courts.

11. The effectiveness of the principle of legal certainty encompasses two main issues. The first relates to its normative function, namely the development of measures concerning other norms or human behavior. The second pertains to its normative force, which serves to clarify what measures should be taken in case contradictions arise in other rules.

12. The principle of legal certainty establishes criteria for the conduct of participants in legal relations. Moreover, its regulatory significance lies in defining the most crucial models and guidelines of human behavior and enabling individuals to identify notions of responsibility and accountability to society and the state.

13. In the analysis of advanced foreign practices regarding the principle of legal certainty, the use of this principle by the Constitutional Court of the Federal Republic of Germany to declare any law contradicting the Constitution (the Basic Law) as inconsistent was examined. In this case, legal certainty contributes not to the restriction of citizens' freedoms, but to the protection of their rights. Therefore, based on the above conclusion, if such situations arise in the legal practice of the Republic of Uzbekistan, it would be advisable for the Constitutional Court to resolve the issue based on the principle of legal certainty.

II. Proposals and recommendations for further improvement of the regulatory framework

1. Although the word "principle" is used 8 times in the Law of the Republic of Uzbekistan "On Normative Legal Acts," there is no information about the principle of legal certainty. While compliance of normative legal acts with the requirements of this principle is strictly established in anti-corruption expertise, the issue of legal certainty remains unaddressed in the law. Furthermore, Article 5 of this law enumerates the basic principles of the law, listing 7 fundamental principles, among which the principle of legal certainty is absent.

Based on the essence and content of this dissertation, we consider it appropriate to formulate Article 5 of the aforementioned law in the following wording:

"The fundamental principles of this Law are:

constitutionality;

legality;

protection and prioritization of the rights and legitimate interests of individuals and legal entities, as well as the interests of society and the state;

transparency;

scientific basis;

systematic and comprehensive legal regulation of social relations;

legal certainty;

stability of legal regulation of social relations."

2. In the Law of the Republic of Uzbekistan "On the Procedure for Preparing Draft Laws and Submitting them to the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan," the word "principle" is used twice, referring to the principles of international treaties (Article 13) and generally recognized principles of international law (Article 15) in Articles 13-15. In our opinion, it is necessary to incorporate the principle of legal certainty into this law, which is considered fundamental in the preparation of draft laws.

Therefore, we consider it appropriate to formulate Article 20 of this Law as follows:

"**Article 20. Requirements pertaining to the wording of draft laws**

A draft law must meet the requirements of legal regulation, stability, systematicity, and comprehensiveness of social relations based on the principle **of legal certainty.**

The draft law shall be presented in concise, clear, simple, and fluent language, using legal terminology in a manner that precludes various interpretations of the norms. The use of outdated or ambiguous words and phrases, figurative comparisons, epithets, and irony is not permitted.

The sentences in the text of the draft law must not be excessively long."

3. The current Law "On the Constitutional Court of the Republic of Uzbekistan" does not include the principle of legal certainty among the basic principles of constitutional proceedings. It is well-known that in a democratic state, the principle of legal certainty is of great importance for ensuring the rule of law and making decisions that are fair, clear, and comprehensive. Based on this, it is advisable to amend Article 20 of this law as follows:

"Article 20. Basic principles of constitutional proceedings

The supremacy of the Constitution of the Republic of Uzbekistan, independence, collegiality, transparency, adversarial proceedings and equality of the parties, and **legal certainty** are the main principles of constitutional proceedings."

4. It is proposed to introduce a new Article 251 into the Law "On the Constitutional Court of the Republic of Uzbekistan." Specifically:

"Article 251. Legal certainty

This principle is an important fundamental rule that serves to ensure the fairness, clarity, consistency, and comprehensiveness of the Constitutional Court's decisions."

5. The principle of legal certainty is not reflected in all provisions of the current Law of the Republic of Uzbekistan "On Courts." In judicial practice, the principle of legal certainty is important for ensuring the rule of law and the fairness, accuracy, completeness, and transparency of court decisions. Based on this, it is proposed to supplement this law with Article 81:

Article 81. Principle of legal certainty

According to the principle of legal certainty, a court decision that has entered into legal force can be overturned in the following cases:

If the newly adopted court decision, by its essence, does not violate the principle of justice;

When there are instances of serious violations of substantive and procedural law norms in the relevant court decision.

6. Additionally, in the current "Civil Procedure Code of the Republic of Uzbekistan," the principle of legal certainty is not reflected among the principles of judicial proceedings. In legal practice, the principle of legal certainty plays an important role in ensuring the rule of law and making legal decisions fair, precise, comprehensive, and transparent. Based on this, it is proposed to amend Article 14 of this Code and state it in the following wording:

Article 14. Resolution of cases on the basis of legislation **and the principle of legal certainty**

Court proceedings must be conducted in accordance with the Constitution and laws of the Republic of Uzbekistan. The court may use other legislative acts if they do not contradict the Constitution and laws of the Republic of Uzbekistan.

In the absence of legal norms regulating a disputed situation, the court applies legal norms that regulate similar relations. If such norms are absent, the court resolves the dispute based on the general principles and content of laws, with the aim of ensuring that court decisions are fair, precise, comprehensive, and transparent.

The court also applies the legal norms of a foreign state in accordance with the law or international treaty of the Republic of Uzbekistan.

7. At the same time, the current Economic Procedural Code of the Republic of Uzbekistan does not incorporate the principle of legal certainty within the structure of judicial proceedings principles. It is known that when considering economic matters by the relevant court, it is necessary to adhere not only to the principles of equality before the law and the court, independence of judges and their subordination to the law, adversarial proceedings and equality of parties, but also to the requirements of the principle of legal certainty. This principle serves to ensure that court decisions **are fair, precise, comprehensive, and transparent**.

Based on this, Article 13 of the Economic Procedural Code of the Republic of Uzbekistan is amended as follows:

Article 13. Resolution of cases on the basis of legislation **and the principle of legal certainty**

The court resolves cases on the basis of the Constitution and laws of the Republic of Uzbekistan, other legislative acts, as well as international treaties of the Republic of Uzbekistan.

If, during the consideration of a case, the court determines that an act of a state or other body does not comply with the law, including that this act was adopted beyond its competence, it makes a decision in accordance with the law.

In the absence of legal norms regulating a disputed relationship, the court applies legal norms regulating similar relationships, and in the absence of such norms, it resolves the dispute based on the general principles and content of laws, **as well as based on the requirements of the principle of legal certainty in order to ensure that court decisions are fair, accurate, comprehensive, and transparent.**

In cases concerning disputes between business entities and state bodies, including law enforcement and regulatory bodies, as well as banks, all contradictions and ambiguities arising in connection with the implementation of entrepreneurial activity are resolved in favor of the business entity.

The court applies the legal norms of foreign states in accordance with the law of the Republic of Uzbekistan or an international treaty.

НАУЧНЫЙ СОВЕТ DSc.07/30.12.2019.Yu.22.02 ПО ПРИСУЖДЕНИЮ УЧЕНЫХ СТЕПЕНЕЙ ПРИ ТАШКЕНТСКОМ ГОСУДАРСТВЕННОМ ЮРИДИЧЕСКОМ УНИВЕРСИТЕТЕ

ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ ЮРИДИЧЕСКИЙ УНИВЕРСИТЕТ

ЮСУПОВ ИЛХОМЖОН ИБОДИЛЛАЕВИЧ

ПРИНЦИП ПРАВОВОЙ ОПРЕДЕЛЁННОСТИ: ТЕОРЕТИКО-ПРАВОВЫЕ ВОПРОСЫ

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История правовых учений

АВТОРЕФЕРАТ
диссертации доктора философии (PhD) по юридическим наукам

Ташкент – 2025

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ВВЕДЕНИЕ (Аннотация диссертации доктора философии (PhD))

Объектом исследования является система правоотношений, связанных с пониманием и применением принципа правовой определенности в правовой практике в Республике Узбекистан.

Научная новизна исследования заключается в следующем:

обоснована необходимость предоставления уполномоченному органу уточнять нормы документов по оценке воздействия на конкуренцию и получать по ним соответствующие разъяснения с целью усиления контрольной функции уполномоченного органа в области оценки воздействия на конкуренцию и совершенствования механизма уточнения правовых норм;

обоснована необходимость внедрения механизма передачи текстов нормативно-правовых актов и материалов, направленных на их разъяснение, через Единую систему обмена правовой информацией с целью обеспечения открытости и прозрачности информации о нормативно-правовых актах и расширения возможностей общественного доступа к правовым нормам;

обоснована необходимость включения в заключение экспертизы анализа других вопросов, выявленных в ходе проведения научной экспертизы, которые могут возникнуть в результате принятия нормативно-правового акта, с целью повышения качества научной экспертизы и обеспечения перспективной эффективности нормативно-правовых актов.

В целях повышения качества и точности заключений научной экспертизы и создания эффективного механизма взаимодействия между организациями обоснована необходимость предоставления органу, принимающему нормативно-правовой акт, полномочия направлять запрос организации, проводившей научную экспертизу, для уточнения предложений, возражений и замечаний, содержащихся в заключении.

Внедрение результатов исследования. На основе полученных научных результатов по совершенствованию теоретико-правовых основ принципа правовой определенности:

предложение о том, что уполномоченный орган имеет право уточнять нормы документов по оценке воздействия на конкуренцию и получать соответствующие разъяснения по ним, было учтено при разработке абзаца 3 пункта 22 Положения «О порядке оценки воздействия нормативно-правовых актов и их проектов на конкуренцию,» утвержденного Постановлением Кабинета Министров Республики Узбекистан No 694 от 29 декабря 2023 года (Акт Управления юридического обеспечения при Кабинете Министров Республики Узбекистан No 12-15-80 от 7 ноября 2024 года). Учет данного предложения послужит уточнению норм документов об оценке воздействия на конкуренцию и прав на получение соответствующих разъяснений по ним;

предложение о внедрении передачи текстов нормативно-правовых актов и материалов, направленных на их разъяснение, через Единую систему обмена правовой информацией было учтено при разработке пункта 37 »Программы мер по повышению правовой культуры в обществе на 2024-2025 годы,» утвержденной постановлением Кабинета Министров Республики Узбекистан

No 588 от 18 сентября 2024 года (Акт Управления юридического обеспечения при Кабинете Министров Республики Узбекистан No 12-15-80 от 7 ноября 2024 года). Реализация данного предложения будет способствовать внедрению системы доведения текстов нормативно-правовых актов и материалов, направленных на их разъяснение, через Единую систему обмена правовой информацией;

предложение о необходимости отражения анализа других вопросов, которые могут возникнуть в результате принятия нормативно-правового акта, выявленных в ходе научной экспертизы, было учтено при разработке абзаца 8 пункта 16 Положения о порядке проведения научной экспертизы проектов нормативно-правовых актов, утвержденного Постановлением Кабинета Министров No 29 от 22 января 2025 года (Акт Департамента информационно-аналитического и юридического обеспечения Секретариата Премьер-министра Республики Узбекистан No 30 от 26 апреля 2025 года). Реализация данного предложения послужит анализу различных ситуаций, выявленных в ходе научной экспертизы нормативно-правовых актов и которые могут возникнуть в будущем;

предложение о том, что орган, принимающий нормативно-правовой акт, может направить запрос организации, проводившей научную экспертизу, с целью внесения ясности в предложения, возражения и замечания, содержащиеся в заключении, было учтено при разработке пункта 23 Положения о порядке проведения научной экспертизы проектов нормативно-правовых актов, утвержденного Постановлением Кабинета Министров No 29 от 22 января 2025 года (Акт No 30 от 26 апреля 2025 года Департамента информационно-аналитического и юридического обеспечения Секретариата Премьер-министра Республики Узбекистан). Внедрение данного предложения послужит четкому определению полномочий органа, принимающего нормативно-правовой акт, направлять запрос организации, проводившей научную экспертизу, с целью внесения ясности в предложения, возражения, замечания, содержащиеся в заключении.

Структура и объем диссертации. Диссертация состоит из введения, трех глав, включающих 8 параграфов, заключения и списка использованной литературы. Объем диссертации составляет 154 страницы.

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

I bo‘lim (I част; I part)

1. Yusupov I.I. Huquqiy aniqlik prinsipini qonun ijodkorligi jarayonida qo‘llashning nazariy-huquqiy masalalari // “Yurisprudensiya” elektron jurnali (https://jurisprudence.tsul.uz/yurisprudensiya-5-2022/). № 5, 2022. – B. 6–13. (12.00.00).

2. Юсупов И.И. Ҳуқуқий аниқлик принципининг айрим назарий-ҳуқуқий жиҳатлари хусусида // “SCIENCE problems.uz.” elektron jurnali (https://-scienceproblems.uz/index.php/journal/article/view/1010). № 11 (3-2023. – B. 378–385. (12.00.00).

3. Юсупов И.И. Ҳуқуқий аниқлик принципининг ҳуқуқий табиати ҳақида айрим мулоҳазалар // “Жамият ва инновациялар-Общество и инновации-Society and innovations” elektron jurnali (https://inscience.uz/index.php/socinov-/article/view/4019). № 04 (2024), – B. 134-142. (12.00.00).

4. Yusupov I.I. “Ҳуқуқий аниқлик принципи функцияларининг амалий аҳамияти юзасидан айрим мулоҳазалар”// “Жамият ва инновациялар-Общество и инновации-Society and innovations”, ISSN: 2181-1415 № 10 (2024), – B. 342–347. (12.00.00).

5. Yusupov I.I. Some Considerations Regarding the Functions of the Principle of Legal Certainty // Journal of intellectual property and human rights, ISSN: 2720-6882 № 3 (11/2024), – B. 109-111. (12.00.00).

6. Yusupov I.I. The role and importance of the principle of legal accuracy in the system of principles of law // World Bulletin of Management and Law (WBML) Available Online at: https://www.scholarexpress.net Volume-34, May -2024. https://scholarexpress.net/index.php/wbml/article/view/3302.Pp. 13–14.

7. Yusupov I.I. Some reflections on the principle of legal certainty // World Bulletin of Management and Law (WBML) Available Online at: https://www.scholarexpress.net Volume-34, May -2024. https://scholarexpress.-net/index.php/wbml/article/view/4169. Pp. 15–17.

8. Yusupov I.I. Organizational and legal basis of property law // Web of Scientist: International Scientific Research Journal. ISSN: 2776-0979 Volume-3, Issue 7, July, 2022. https: //wos.academiascience.org/index. php/wos/article/view-/2191. Pp. 215–219.

9. Yusupov I.I. Principles of universal law // Central Asian Journal of Social Sciences and History. ISSN: 2660-6836, Volume-04 Issue: 01, Jan 2023. https://cajssh.centralasianstudies.org/index.php/CAJSSH/article/view/600. Pp. 91–92.

10. Yusupov I.I. Principles of law Theory // Central Asian Journal of Theoretical and Applied Sciences. ISSN: 2660-5317, Volume-04 Issue: 06, Jun

2023. https://cajotas.centralasianstudies.org/index.php/CAJOTAS/article/view/1200. Pp. 34–35.

11. Yusupov I.I. Ustav fondida davlatga tegishli ulush bo‘lgan xo‘jalik jamiyatlarida qaror qabul qilish jarayonida davlat ishtirokining huquqiy asoslari va tartibi // Central Asian Journal of Theoretical and Applied Sciences. ISSN: 2660-5317, Volume-04 Issue: 06, Jun 2023. https:// cajotas.centralasianstudies.org/index.php/CAJOTAS/article/view/1200. Pp. 34-35.

12. Yusupov I.I. “Huquqiy aniqlik prinsipi – huquq ustuvorligining muhim talabi”// “Jamiyat va innovatsiyalar -Общество и инновации- Society and innovations”, ISSN: 2181-1415 № 04 (2025), – B. 271–275. (12.00.00).

13. Yusupov I.I. The Principle of Legal Certainty and the Rule of Law // Journal of intellectual property and human rights, ISSN: 2720-6882 № 4 (5/2025), – B. 44–45. (12.00.00).

II-bo‘lim (II часть; II part)

14. Yusupov I.I. Huquq prinsiplari va huquqiy aniqlik prinsipi // “Zamonaviy dunyoda ijtimoiy fanlar: nazariy-amaliy izlanishlar” nomli ilmiy, masofaviy, onlayn konferensiya. Published September 16, 2022 | Version v1. – B. 11–18.

15. Yusupov I.I. Huquqiy aniqlik prinsipining qonun ijodkorligi jarayonida qo‘llanishi normativ-huquqiy hujjatlardagi noaniqliklar va ziddiyatlarni kamaytirishning vositasi sifatida. // “Zamonaviy dunyoda innovatsion tadqiqotlar: nazariya va amaliyot” nomli respublika ilmiy, masofaviy, onlayn konferensiya, Published September 16, 2022 | Version v1.– B. 53–57.

16. Yusupov I.I. The principle of legal certainty - as a requirement of the rule of law // International conference on management, economics & Social science, Hosted from Tampere, Finland, Vol.1 No.8 (2023). Pp. 40–43.

17. Yusupov I.I. Functions of the principle of legal certainty // Academic research in modern science International scientific-online conference (T. 3, Выпуск 32, cc. 26–29). Zenodo. Published August 27, 2024 | Version v1.

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