

**THE REPUBLIC OF UZBEKISTAN AS AN INDEPENDENT ACTOR IN
INTERNATIONAL PLATFORM AND IT INTERACTION WITH
INTERNATIONAL LAW THROUGH INTERNATIONAL TREATIES****Sherzod Mirmakhmudov**

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Abstract: In this article, the legal framework for the implementation of international treaties into the domestic legislation of the Republic of Uzbekistan is put forth by the author, emphasizing the structural aspects of it.

Key words: independent actor, consent, domestic legislation, responsibility, practice of international treaties, reasonable time, implementation, legal force, doctrine of law, legal instrument, interested state body, participating-states, fulfillment of obligations.

After the adoption of the Declaration of Independence on August 31, 1991, the Republic of Uzbekistan received the status of an independent actor of international law on an international platform. It is important to note that in order to declare its entry into the international arena, the State joined the Universal Declaration of Human Rights 30 days after that date and gave its consent to assume obligations under the treaty. Through this, it is considered that it has provided its consent to the Human Rights Watch within the state to monitor and analyze this sphere – monitoring cases of violations of international human rights and freedoms around the world. In other words, having just left the air of independence, the State took on a significant level of responsibility for itself. It was by this time that the issues of the adoption of the State Constitution and international law, regulatory legal acts aimed at regulating international treaties were still ahead. The responsibility was that the State, which was still in the process of entering the international platform, could bury its prestige for many years. The question of whether the State has succeeded in doing this is not being considered, since the points that will be required to analyze this status are on other fronts.

The main points of such action are that the State could not come up with a statement of interpretation such as “wait for a certain period of time on the execution of the treaty, since we have not yet formed an internal normative system”. Indeed, it should be noted that in accordance with the doctrine and practice of international treaties, accession to the treaty is considered a condition that the State needs time to fulfill the obligations provided for by certain norms, as well as the freedom to obtain a reasonable time. But, at the time, such a procedure has not been fixed under this international treaty. In this case, if Uzbekistan deviates from the norms contained in the text of the document, the member-states of the Declaration will be able to apply the principles of *pacta sunt servanda* and *bona fide* by referring to the practice of implementing international treaties formulated on the international platform by the actors of international law. After all, this document went down in history as the first international treaty to which Independent Uzbekistan joined, that is, it did not yet has the status of a state-party under the Convention on the Law of Treaties (hereafter referring as the 1969 treaty).

Due to the need to form and regulate the domestic legal system for international contractual relations will come into force in the future, it was an obvious reality for Uzbekistan to create its own legal framework on this issue. After all, it is difficult to say whether it make sense to discuss the issue of becoming a full-fledged independent subject of international law without international cooperation with other countries. Therefore, cooperation in this form can only be established by international agreements. To do this, the institutional system of international treaties should be formed in domestic law.

As a special normative legal act, the first one dedicated to the internal regulation of the relations of Uzbekistan with international financial institutions and regulating relations in this category on Uzbek law, was the Law No.850 – XII of May 7, 1993 “On the Conclusion and Denunciation of International Bonds and Guarantees of Agreements of the Republic of Uzbekistan with international financial institutions”. This course of action was due to the fact that in the early years of the period when independence was gained, it was vital to keep the economic stability of the State at once, while improving the social status of the population. This, in turn, creates the need to create a legal framework for attracting foreign investment. Therefore, the initial regulatory framework was the orientation towards these aspects of relation.

Significantly, the fate of the aforementioned law 850-XII did not last long. Law of the Republic of Uzbekistan “On International Treaties of the Republic of Uzbekistan” in the new edition became invalid with the adoption of No. R.U.L-518 on February 6, 2019 (the original version was No. 172-I dated December 22, 1995). When forming the original text of this document, the legislative power of Uzbekistan took into account international agreements, in particular the 1969 treaty. After all, the State joined in accordance with the resolution of the Oliy Majlis of the Republic of Uzbekistan (hereinafter referred to as the Oliy Majlis) of February 24, 1995 No.29 “On Accession to the Vienna Convention on the Law of Treaties” (agreed to assume obligations under the treaty) and entered into force on August 11, 1995, starting from the first day. Thus, both the first and the updated copy of this law take into account the requirements of this international treaty. In other words, the legal norms recorded in the document were formulated in accordance with the provisions of the 1969 treaty. Based on the general approach expressed in the norms of the convention, the internal law of State was formed.

Law No. R.U.L-518 defined the basic domestic legal framework of Uzbekistan on issues related to the law of international treaties. This means that in the event of a dispute arising from this issue taking place from the agenda, it will be referred to as the only universal source. The immediate text of the law will be analyzed in detail and discussed in the upcoming parts below.

The legislation on Uzbek law is understood as decrees and decisions of the President of the Republic of Uzbekistan, decisions of the Cabinet of Ministers of the Republic of Uzbekistan, orders and decisions of Ministries, State Committees and Departments, and decisions of Local State Authorities. It follows that in the process of reviewing subordinate sources on the law of international treaties, they are addressed. The fact of direct reference to the by-law can be attested from the last part of Article 8, part 1 of Article 10, the last part of Article 11, the last part of Article 13, part 2 of Article 15 of the R.U.L-518 Law. The conclusion that can be drawn from this is that the law has indirectly hinted at the possibility of obtaining regulatory legal acts of this category as a source for these relations by airing on the legislative document about the procedure for implementing the norm established in it or its detailed interpretation. The name of referred document is the Methodological Instruction “On the Preparation of a Draft of International Treaty and the Development of an Issue on the feasibility of Participation of the Republic of Uzbekistan in a Multilateral International Treaty”. This legislative act was adopted as an appendix to the decision of the Ministry of Foreign Affairs of the

Republic of Uzbekistan No.54 and the Ministry of Justice of Republic of Uzbekistan No.1 of June 30, 2020.

The Methodological Instruction defines the procedure for preparing a draft international treaty and working out the issue of the expediency of the participation of the Republic of Uzbekistan in a multilateral international treaty in accordance with the Law of the Republic of Uzbekistan “On International treaties of the Republic of Uzbekistan”¹. It clearly and broadly regulated such issues as the application of the references in particular, amendments and additions to these relations, coordination, signing of a draft international treaty or the question of the expediency of participation in a multilateral international treaty. Thus, in the event that issues such as the legal procedure for concluding bilateral treaties or the compliance of joining multilateral treaties with the interests of Uzbekistan are put on the agenda, this Methodological Instruction serves as the main source.

It should be noted that the following instructions are attached to the Methodological Instruction: Appendix 1 – “the Most Commonly Used Words and Terms in International Treaties and International Non-Treaty Documents”, Appendix 2 – “Final Part of the Bilateral International Treaty; Model Provisions”, Appendix 3 – “Final Part of the Memorandum; Model Provisions”, Appendix 4 – “Comparative Table on the Subject Analysis of the Compliance of the Provisions of the Multilateral International Treaty with the Norms of National legislation and Existing Practice in the Republic of Uzbekistan”. Thus, the significance of the Methodological Instruction on the Issue of the Execution of International Treaties is important, from which it can be concluded that, following the established procedure, Uzbekistan also assumes strict obligations and resolutely approaches execution by joining bilateral or multilateral treaties.

Furthermore, the Resolution No.15 of the Cabinet of Ministers of the Republic of Uzbekistan “On the Procedure for the Conclusion, Execution, Suspension and Termination of International Interagency Treaties of the Republic of Uzbekistan” has become invalid by the Law of the Republic of Uzbekistan

¹Ўзбекистон Республикаси Ташқи ишлар вазирлиги, Ўзбекистон Республикаси Адлия вазирлигининг қарори, 30.06.2020 йилда рўйхатдан ўтган, рўйхат рақами 3277 “Халқаро шартнома таёрлаш ва Ўзбекистон Республикасининг кўп томонлама шартномада иштирок этиши мақсадга мувофиқлиги тўғрисидаги масалани ишлаб чиқиш ҳақида”ги Услубий Қўрсатма // Қонунчилик маълумотлари миллий базаси, 30.11.2021 й., 10/21/3338/1117-сон // <https://lex.uz/docs/4939446#undefined>

No.518. The Cabinet of Ministers of the Republic of Uzbekistan, adopted on December 12, 2000, “On the Procedure for the Preparation of International Draft Treaties and the Fulfillment of Obligations of the Republic of Uzbekistan under International Treaties”, Decree No.473 and attached to it “On the Development of International Draft Treaties at the Expert Level and Ensuring the Fulfillment of Obligations under International Treaties”, was also deprived of its legal force.

From the above analysis, it can be seen that the Law R.U.L-518 is aimed at regulating one system, that is to say, the relations of international treaties. Accordingly, its composition consists of chapters XII and 56 articles. Among the relations it focused on were such issues as the general provisions of international treaty law, the procedure for concluding treaties, declaration, registration, maintenance, invalidity, suspension or termination. It follows from this that this law, in fact, has the character of the code designed to codify issues related to one relationship. Consequently, as a result of the adoption of this edition, such regulatory acts as Law No.850-II, Resolutions No.15 and No.473 of Cabinet of Ministers, the Attached List have lost their legal force. To put it another way, in its content it summarized and reflected the norms and principles expressed in these legislative acts. The document was signed by the President of the State on February 6, 2019 and entered into legal force from the date of its official announcement, the execution of which was left to the authority of the Cabinet of Ministers.

Chapter 4 of the R.U.L-518 and its articles 33, 34, 35, 36, 37, 38 show measures devoted to relations related to the implementation of international treaties in which the State participates on the territory of Uzbekistan. To put it simple, the organizational-institutional framework for the execution of an international treaty is enshrined precisely in these chapters and provisions. At the same time, one should not forget about the fact that by the Resolution No.29 of the Oliy Majlis of February 24, 1995, it was attached to the international normative document acting on the international platform for international treaties. Thus, analysis is and will be carried out through the means of this external and internal basis.

On the general basis of Uzbek law, the obligations provided for by the State in bilateral and multilateral international treaties in which it participates are observed in a non-deviant and mandatory manner in accordance with the norms of international law. From this, it is necessary to distinguish the words “non-deviating” and “obligatory” as the main aspect. In accordance with the norms of

international law, it can be interpreted, first of all, as the fact that the 1969 Treaty provided for reliance on the rules agreed by States, as well as on the practice established in the life of international law. Thus, article 26 of this international treaty also implicitly implied the principle of *pacta sunt servanda* in the literal sense. The word “binding”, on the other hand, can be directly linked to an aspect of the *bona fide* institute in international treaty law, that is, to the part of a diligent approach to its obligations, and interpreted in that context. For example, while joining to the International Convention on the Termination of All Forms of Racial Discrimination under State Parliament Resolution No.129-I of August 31, 1995, the Convention on the Political Rights of Women by Resolution No.501-I of August, 1997, the Convention on the Prevention and Punishment of the Crime of Genocide under Resolution 835-I, when requiring Uzbekistan to implement its obligations, the above common ground may be referred to the principles of *pacta sunt servanda* and *bona fide* by means of “binding” and “non-deviating”.

In the last part of Article 33 of the R.U.L-518 Law, it is noted that when adopting relevant documents on implementation issues, the opinions of the M.F.A and the Ministry of Justice will be received. That is to say, in a situation where the State wants to join an international treaty and the question arises of adopting a legislative act to amend national legislation as a condition for participating in the treaty, the feedback from the two aforementioned ministries is obtained. For example, on the international platform, a multilateral treaty was agreed on international investment relations. In this case, the interested government body, highlighted in Article 33, is the Ministry of Investment, Industry and Trade of the Republic of Uzbekistan. To implement the treaty into national law, proposals are submitted to the Oliy Majlis by the Ministry of Investment, Industry and Trade, in agreement with the above ministries.

The fact that this is directly related to the relationship of the execution of international treaties is that implementation is, in fact, the first step towards execution. After all, the legislation is changed according to the requirement of the text of the treaty (for example, with a new rule, a normative act), and thus the procedure for the implementation of obligations received from the treaty begins to move. But at the same time, by joining the treaty, it is possible to state in a concrete statement that it takes time to bring the requirements of its norms into line with national legislation, or to implement them at certain intervals in accordance with the social status of society. In this case, if the statement does not cause objection to the treaty by the Participating-States, the State will be added to the

treaty. In particular, the text of the Convention on the Rights of the Child provides that a child is understood to be a minor under the age of eighteen enshrines the ban on the involvement of a child in married relationships². Uzbekistan approved the assumption of legal obligations established in this international treaty by Resolution No.757-XII of the Oliy Majlis of 1992, and in Article 15 of the Family Code of the Republic of Uzbekistan adopted on September 1, 1998, the total minimum age was set at 16. A young discrepancy arose between the two regulatory acts, and statements issues were made many times by the Treaty Committee of the Convention. As a result of this, the age of marriage was harmonized with the international agreement by the Law of the Republic of Uzbekistan dated August 28, 2019 No.558 “On Amendments and Additions to certain legislation of the Republic of Uzbekistan”. That is, after the adoption of the social life of society, the State implemented its obligation in accordance with its issued statement dated 1992. The time distance formed between the actions does not matter, since it is connected both with the State and with a complex social system.

It is entrusted to the President of the Republic of Uzbekistan to ensure the implementation of international treaties in which the State participates throughout its whole territory. It is noteworthy to say that this view goes back to the theory of the presidential republic. In particular, in the American model of the presidential republic, the administration of the Executive Power of the United States is covered by the authority of the President of the States. This norm is reflected as in the initial edition of the Law “On International Treaties of the Republic of Uzbekistan”, and in the text of the Constitution of December 8, 1992. This is due to the fact that until the adoption of the Law of the Republic of Uzbekistan “On Amendments to the Articles of the Constitution of the Republic of Uzbekistan (Article 89, Paragraph 15 of Article 93, Part 2 of Article 1023)” (April 11, 2007), the President of the State was in the Status of Head of State and Executive Power. Therefore, the issue of ensuring the implementation of international treaties has been assigned to the President of the State, and so far this procedure has remained in force (a new edition of the Constitution of May 1, 2023). However, it would be correct from the doctrine of law and the content of this power to be delegated to

² The United Nations Convention on the Rights of the Child (commonly abbreviated as the CRC or UNCRC) – <https://www.unicef.org/child-rights-convention/convention-text>

the authority of the Executive Power to ensure the execution of treaties within its territory.

The Cabinet of Ministers of the Republic of Uzbekistan takes direct practical measures to ensure the implementation of the international treaty. In particular, based on the subject of an international treaty, it appoints the relevant state body and officials whose will be in charge of exercising control over its implementation, and determines their powers. Take as an example, if an international treaty between States on Sanitary and Epidemiological Welfare and Public Health is adopted in the international arena and Uzbekistan joins it, control over the fulfillment of contractual obligations by the Cabinet of Ministers may be entrusted to the Ministry of Health and its relevant officials, based on the goals and objectives of the Ministry³. In addition, if, for example, an international treaty on Natural Resources Distributed over Forests is agreed upon by the States and Uzbekistan decides to take part in, a discussion may arise on the issue of the interested state body. This is to say, there is a possibility to adapt the object and content of the treaty under jurisdiction of the Ministry of Natural Resources or the Forestry Agency with different interpretations. In similar situations, it is up to the Cabinet of Ministers to determine the state body that coordinates the fulfillment of obligations under the international treaty. The legal framework devoted to this is enshrined in the fourth part of Article 34 of the Law of R.U.L-518.

According to the Article 36 of the R.U.L-518 Law, monitoring on the implementation of international treaties is carried out by the Ministry of Foreign Affairs by means of an electronic database. This data warehouse systematizes in its structure the objects of accounting, inventory and implementation of international treaties in a single way. In this whole process, the interested state body, which is entrusted with the control of the treaty, annually provides information to the foregoing ministry on the issues planned to be completed during the year until December 31. Its form will be directly within the framework approved by the Ministry of Foreign Affairs. In this case, on the basis of a survey of the ministry, it is envisaged to provide it with information of intervals of two weeks. The

³ Ўзбекистон Республикаси Президентининг 2023 йил 25 январдаги ПФ-14-сон Фармонида 1-Илова “Республика ижро этувчи ҳокимият органлари – вазирликлар, кўмиталар, агентликлар ва инспекциялар ҳамда улар ҳудудий ва туман (шаҳар) бўлинмаларининг жами бошқарув ходимларининг умумий чекланган сони” // Қонунчилик маълумотлари миллий базаси, 25.01.2023 й., 06/23/14/0053-сон; 25.03.2023 й., 06/23/43/0167-сон // <https://lex.uz/docs/6369997>

information indicates the boundary of issues within its legal competence between the relations regulated by the contract. It follows from this that, as noted above, a number of state bodies can be recognized as an interested state body. The importance of this information in relation to the execution of international treaties lies in the fact that based on it, the Ministry of Foreign Affairs will be able to give a legal assessment of the situation with the implementation of the treaty, as well as prepare appropriate proposals for more effective enforcement. That is, the basis of the proposals comes from this information. In turn, the ministry, along with the generalized information, includes the relevant proposals to the Cabinet of Ministers of the Republic of Uzbekistan or, if necessary, to the President of the State. The current legislation established that the preferred period for the commission of this procedural action is until March 1 of each year. Hence, the general monitoring of the implementation of international treaties is entrusted to – the Ministry of Foreign Affairs, and monitoring in a special order is – the competence of the interested state bodies.

It was stated above that one of the objects of the electronic database related to monitoring is the inventory of international treaties to which the Republic of Uzbekistan has acceded. The implementation of this complex process is within the competence of the Ministry of Foreign Affairs, and the Ministry solves it jointly with the interested state body or bodies determined by the Cabinet of Ministers, based on the subject of the treaty, as well as with other contracting parties. In turn, a contracting party in the legislation means a State (States), an international organization (international organizations) and (or) other subject (other subjects) participating as an independent party to an international treaty and agreeing that this international treaty is binding on it, regardless of whether it has entered into force or not⁴. It can be seen from this rule that a contracting party can be called in other words as a Participant-State, an international organization. Thus, during the inventory of the international treaty, the Ministry is moving in the same direction with the interested state bodies, as well as with other parties to the treaty. As the purpose of the inventory, it is manifested in ensuring that the treaty is taken into account in a single way and establishing its legal status.

⁴ 06.02.2019 йилдаги ЎРҚ-518-сонли “Ўзбекистон Республикасининг халқаро шартномалари тўғрисида”ги Қонун // Қонунчилик маълумотлари миллий базаси, 21.04.2021 й., 03/21/683/0375-сон // <https://lex.uz/docs/4193761>

As a result of the inventory, at the discretion of the Cabinet of Ministers and, if necessary, the President of the State, one of the following is submitted for consideration by the Ministry of Foreign Affairs:

- ✓ to be found to have lost its legal power;
- ✓ prolongation;
- ✓ revision.

When making a proposal, the interested state bodies are notified by the foregoing ministry of the final proposal that has been formed. In particular, the State joined the Moroccan Agreement on the Promotion of the Use of Published Works by Persons with Impaired Vision, Visual Impairments and Other Limited Perception of Printed Information on January 13, 2022 with the release President Decree No.80, according to which the Information and Mass Communications Agency was identified as a state body interested in the treaty. In this case, the ministry sends a notification to the agency in question about the conclusion of the final proposal. From this it can be concluded that the main purpose of the inventory is to analyze and evaluate the practical capabilities of the international treaty.

The existing institution of reservation in the law of international treaties is also reflected in Uzbek law. The difference is that the institution of reservation was introduced into legislation as an institute of an additional condition, which was legally reflected in Article 26 of the Law No.518. According to it, like established by the norms of 1969 Treaty, it is institution that the State is carried out at the stage of presenting its consent to the fulfillment of obligations under the international treaty. It was emphasized that the provision of an additional condition and its declaration as invalid at any time is under the jurisdiction of the State as an independent actor of international law. In the event that a reservation is made by another Participant-State in the international treaty in which the State participates, in the event of a decision on which subject to join the Treaty on behalf of Uzbekistan (it was analyzed that there are three institutions above), the issue of objection to it or its acceptance is also left to the competence of the subject in question.

Based on the Decree of the President of the Republic of Uzbekistan dated April 4, 2023 No.109 “On Approval of International Treaty”, the Member-States of the Commonwealth of Independent States agreed to accept international contractual obligations under the Astana Agreement on the Establishment of an

Advisory Council of Heads of Electoral Bodies. The Central Election Commission was established as the state body interested in the scope of relations in the agreement. In the event that cases of violations of these agreed norms by the other Participating-States come to the force, the Central Election Commission immediately informs the Ministry of Foreign Affairs about this. The procedure for conducting consultations with other Participating-States is also seen by the situation. At the same time, in turn, the Ministry of Foreign Affairs, together with the Central Election Commission, assessing the situation, in the usual manner makes proposals to the Cabinet of Ministers and, if the situation requires a special approach, to the President of the State. According to the last part of Article 38 of the Law No.518 of the R.U.L., options for termination or suspension of this Agreement are being considered if the violation can be regarded as serious.

From the above analysis, it should be concluded that Uzbekistan, in matters of enforcement of international treaties in which it participates, along with the introduction into national legislation of the most important principles of international treaty law – *pacta sunt servanda*, *bona fide*, reservation, has formulated other procedures. As a result, the formation of a complex and consistent unified legal framework has been achieved. After all, international law is noted as an internal component of the Uzbek legal system. But at the same time, although the methods and means of implementing the mechanism for ensuring the execution of international treaties can be traced in the practice of the state, their expression in legislative acts is not fixed in a specific order. These are manifested by the analysis of norms established in regulatory legal acts. Law No.518 “On International Treaties of the Republic of Uzbekistan” in a new order introduced a mechanism for ensuring the state’s execution of internal, national international treaties in the form of a single system, which led to the termination of the legal force of the above regulatory legal acts and annexes. At the same time, it can be finalized that the core regulatory document adopted day and night should be implemented by the State in this matter and is a signal that problems are still ahead.

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