

THE ROLE OF BILATERAL INVESTMENT AGREEMENTS IN PROTECTING THE OVERSEAS INVESTMENTS OF ENTITIES FROM UZBEKISTAN

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Abstract. *The article analyzes the role of bilateral investment agreements in protecting investments of Uzbek entities abroad. Based on data on the Uzbek diaspora in Russia and conflict of laws rules, the necessity of concluding a BIT between Uzbekistan and Russia is substantiated for the legal protection of multi-billion-dollar investments and remittances.*

Key words: *bilateral investment agreements, Uzbek diaspora of Russia, conflict of laws rules, investment protection, Republic of Uzbekistan, remittances.*

Introduction

The relevance of the topic concerning the protection of investments made by entities of Uzbekistan abroad is driven by the unprecedented growth of economic activity within the Uzbek diaspora, particularly in the Russian Federation. As contemporary studies indicate, the Uzbek diaspora in Russia is not only among the largest, comprising approximately 330,000 citizens of the Russian Federation and around 2 million temporary migrants, but also serves as a significant investor and business community within Uzbekistan's domestic economy.

Amid ongoing geopolitical turbulence, including the sanctions pressure following 2022, Russian companies, among them those managed by representatives of the diaspora, have been actively relocating production to Uzbekistan. This trend has created the conditions for a remarkable expansion of the country's business sector. At the same time, however, the issue of legal protection for the capital of Uzbek entities investing both from Russia into Uzbekistan and from Uzbekistan into Russia has become particularly acute.

The present article aims to analyze the role of bilateral investment agreements (BIAs) in safeguarding the investments of Uzbek entities abroad. Special attention is given to the correlation between empirical data on the investment activity of the Uzbek diaspora in Russia, on the one hand, and the legal mechanisms, including conflict-of-law's provisions, capable of ensuring reliable protection of such investments, on the other. The study also examines the role of the Government and the President of the Republic of Uzbekistan, Shavkat Mirziyoyev, in shaping a legal framework that promotes investment cooperation and ensures the protection of the rights of Uzbek investors abroad.

Methodology

The methodological framework of this study is grounded in a comprehensive analysis and synthesis of academic literature, regulatory legal acts, and statistical data. The research employs a systematic literature review, which made it possible to integrate the findings of two key studies: the work of Veliev, Makhina, and Stroykov, devoted to an empirical analysis of the impact of the Uzbek diaspora in the Russian Federation on business and politics in Uzbekistan, and the study by

Plyasov, which examines the theoretical and practical aspects of applying conflict-of-laws rules in investment activities.

In addition, the formal legal method is applied to analyze the provisions of the Civil Code of the Republic of Uzbekistan (Articles 1175, 1190, 1194), the Law ‘On Investments and Investment Activity’ (2019), and the decrees of the President of the Republic of Uzbekistan, Shavkat Mirziyoyev. The statistical method is used to process data on remittances (World Bank, 2023) and the number of enterprises with foreign capital. Furthermore, the comparative legal method allows for the examination of various conflict-of-laws connecting factors, *lex societatis*, *lex voluntatis*, *lex loci delicti commissi*, and *lex venditoris*, and substantiates the necessity of their incorporation into bilateral investment agreements.

Results and Discussion

As noted by Veliev, Makhina, and Stroykov, the Uzbek diaspora in the Russian Federation is one of the largest and most influential, numbering, according to official statistics, approximately 330,000 Russian citizens of Uzbek origin and around 2 million temporary labor migrants [Ошибка! Источник ссылки не найден.]. It is precisely this diaspora that, as the authors emphasize, acts as a significant investor and business community within Uzbekistan.

In the context of contemporary geopolitical turbulence, particularly following the events of 2022, many Russian companies, including those managed by representatives of the diaspora, have been relocating their production to Uzbekistan. According to Veliev, Makhina, and Stroykov [4], this process has created the conditions for an unprecedented expansion of Uzbekistan’s business sector. However, within this very context, an acute need arises for bilateral investment agreements (BIAs) that would ensure the legal protection of the capital of Uzbek entities investing both from Russia into Uzbekistan and from Uzbekistan into Russia, while minimizing the risks of expropriation or discriminatory measures.

Further analyzing the economic dimension, Veliev, Makhina, and Stroykov provide specific data illustrating the scale of investment influence. For example, the activities of entrepreneurs such as Alisher Usmanov (USM holding) and Iskander Makhmudov (UMMC), who invest in infrastructure and industrial projects in Uzbekistan, including the construction of the Center of Islamic Civilization in Tashkent and participation in the capital of ‘Ahangarancement,’ are particularly noteworthy.

As of 2023, 3,156 organizations with Russian capital were operating in Uzbekistan, while 967 new enterprises were established in 2022 alone. In this regard, as the researchers rightly point out, bilateral investment agreements between Uzbekistan and Russia constitute the key mechanism for protecting such large-scale investments. As demonstrated by global practice, such agreements should include provisions on fair and equitable treatment, protection against indirect expropriation, and access to international arbitration, which directly corresponds to the needs of Uzbek investors operating through the Russian diaspora.

A third crucial aspect highlighted by Veliev, Makhina, and Stroykov [4] is the enormous volume of remittances. According to World Bank data for 2023, Uzbekistan received approximately USD 16.1 billion in remittances (17.8% of GDP), with Russia accounting for 78% of the total volume.

Although the authors note that official statistics capture only non-cash transfers, the scale of financial flows itself (USD 14.5 billion in 2022) underscores the vulnerability of economic actors.

As emphasized by Veliev, Makhina, and Stroykov [**Ошибка! Источник ссылки не найден.**], these funds represent a substantial contribution to the national economy, yet they remain insufficiently protected at the level of international investment law. Bilateral investment agreements could extend their protective scope not only to large-scale foreign direct investments but also to smaller entrepreneurial initiatives undertaken by members of the diaspora, creating mechanisms for dispute resolution, for instance, through arbitration centers under chambers of commerce and industry.

In the political sphere, Veliev, Makhina, and Stroykov emphasize that the Uzbek diaspora in Russia forms a ‘strong pro-Russian influence group’ within Uzbekistan. This is reflected in the conclusion of numerous bilateral agreements, including the Joint Statement on Deepening Strategic Partnership (2023), as well as in the establishment of the Federal National-Cultural Autonomy ‘Uzbeks of Russia’ (FNCA ‘UzRos’) and the development of interregional roadmaps.

However, as the analysis demonstrates, the political will be enshrined in these documents must be reinforced by concrete legal mechanisms. In this regard, it is appropriate to refer to the authors’ conclusion that the diaspora serves as an effective mechanism for promoting national interests [**Ошибка! Источник ссылки не найден.**]. Consequently, bilateral investment agreements would represent a logical continuation of this political integration, shifting relations from the sphere of intergovernmental memoranda to that of guaranteed legal protection of the rights of specific investors of Uzbek origin. This is particularly relevant in the context of sanctions pressure and ruble volatility, as noted by the authors.

Moreover, Veliev, Makhina, and Stroykov provide examples of institutional activity requiring legal support. In particular, the activities of Bakhrom Ismailov (head of the Uzbek National-Cultural Autonomy of Moscow), who has set the objective of creating the ‘Vostok’ business club for mentoring and supporting entrepreneurs from the diaspora, as well as combating financial fraud and unfair employers, deserve attention.

It is precisely in this context that bilateral investment agreements could include provisions on the mutual recognition and protection of property rights, as well as the establishment of joint consultative committees on investment. As Veliev, Makhina, and Stroykov conclude, Russian Uzbeks are significant investors; however, without a clear contractual and legal framework, their capital remains exposed to administrative and economic risks [**Ошибка! Источник ссылки не найден.**]. BIAs, therefore, function not merely as a legal instrument but also as a catalyst for further investment inflows from the diaspora.

Based on the comprehensive analysis conducted by Veliev, Makhina, and Stroykov, it can be argued that the role of bilateral investment agreements in protecting the investments of Uzbek entities abroad remains critically underestimated. The authors demonstrate that the Uzbek diaspora in Russia already carries out multi-billion-dollar investments (as evidenced by 3,156 companies with Russian capital and remittance inflows reaching USD 16.1 billion), while also actively participating in political and cultural exchange.

However, as correlations with the findings of the study suggest, existing mechanisms of ‘people’s diplomacy’ and bilateral declarations, without being reinforced by binding investment obligations (including arbitration clauses), do not provide comprehensive protection.

Therefore, the conclusion of a specialized bilateral investment agreement between Uzbekistan and Russia, one that takes into account the specific characteristics of diaspora-driven investments and labor remittances, is not merely desirable but a necessary condition for the sustainable development of Uzbekistan’s economy and the strengthening of the legal status of its investor-citizens abroad.

Building upon the issue of protecting the investments of Uzbek entities abroad, it is essential to turn to the fundamental legal mechanisms which, as noted by Ilyasov [**Ошибка! Источник ссылки не найден.**], form the basis for regulating investment activity beyond the country of residence. While Veliev, Makhina, and Stroykov empirically demonstrate the scale of the investment influence of the Uzbek diaspora in the Russian Federation (3,156 companies with Russian capital and USD 16.1 billion in remittances), Ilyasov provides a legal ‘lens’ through which to understand how these investments can, in practice, be protected.

As Ilyasov rightly emphasizes, the core problem lies in the fact that identical legal institutions are regulated differently in the investor’s country of residence (Uzbekistan) and in the host state (for example, Russia). It is precisely here that conflict-of-laws rules play a decisive role.

According to Ilyasov [**Ошибка! Источник ссылки не найден.**], these rules serve to resolve conflicts between legal systems by referring to the applicable law. In the context of bilateral investment agreements (BIAs), such norms function as a bridge ensuring predictability and stability for Uzbek investors operating through the diaspora, particularly under conditions of sanctions pressure, as highlighted by Veliev, Makhina, and Stroykov [**Ошибка! Источник ссылки не найден.**].

Ilyasov provides a detailed analysis of specific connecting factors that directly correspond to the needs of Uzbek entities engaged in cross-border investment activities. For instance, the personal law of a legal entity (*lex societatis*), determined by the law of the country of incorporation (Article 1175 of the Civil Code of the Republic of Uzbekistan), enables Uzbek companies relocated to Russia to clearly define their legal status [**Ошибка! Источник ссылки не найден.**].

Another crucial mechanism is the law chosen by the parties (*lex voluntatis*), or party autonomy. As Ilyasov notes, this principle is attached in bilateral investment agreements and national legislation, including that of the Republic of Uzbekistan. It allows Uzbek investors and their Russian partners from the diaspora to agree in advance on which jurisdiction’s law, whether Uzbek law or that of a neutral forum, will govern potential disputes. As emphasized by the author, the principle of party autonomy is already embedded in BIAs, directly addressing the challenge identified by Veliev, Makhina, and Stroykov [**Ошибка! Источник ссылки не найден.**]: the need to protect large-scale investments made by entrepreneurs such as Alisher Usmanov and Iskander Makhmudov from potentially discriminatory measures in host states.

Particular importance for the protection of Uzbek investments abroad, according to Ilyasov [**Ошибка! Источник ссылки не найден.**], is also attached to such connecting factors as the law of the place where damage occurs (*lex loci delicti commissi*) and the law of the place of

performance (*lex loci solutionis*). Under Article 1194 of the Civil Code of the Republic of Uzbekistan, rights and obligations arising from harm are determined by the law of the country where the act giving rise to the claim occurred. This is especially significant for Uzbek labor migrants in Russia (approximately 2 million individuals), whose investments in the form of remittances (78% of total inflows into Uzbekistan) may be exposed to risks resulting from unlawful acts.

Ilyasov also highlights the law of the seller's country (*lex venditoris*), enshrined in Article 1190 of the Civil Code of the Republic of Uzbekistan, which applies the law of the seller's country in the absence of an agreement between the parties. For Uzbek exporters, whose trade turnover with Russia amounted to USD 2,668 million in 2023 [**Ошибка! Источник ссылки не найден.**], this rule ensures a degree of legal predictability. At the same time, Ilyasov rightly observes that in certain cases other connecting factors, such as the law of the location of property, may prove more effective.

In concluding this part of the analysis, it is important to emphasize that the Government of the Republic of Uzbekistan, under the leadership of President Shavkat Mirziyoyev, is consistently implementing a strategy aimed at improving the legal framework for the protection of outbound investments. As Ilyasov notes [**Ошибка! Источник ссылки не найден.**], Uzbek legislation would benefit from incorporating progressive international practices, including expanding the scope of party autonomy and adopting a mixed approach to determining the law applicable to legal entities.

It was President Shavkat Mirziyoyev who initiated the adoption of key legal instruments, such as the Presidential Decree of May 19, 2017 'On Measures for Further Improvement of Interethnic Relations' and the Law of the Republic of Uzbekistan 'On Investments and Investment Activity' of December 25, 2019, which together establish the institutional foundation for the application of conflict-of-laws rules [1].

The correlation between the study of Veliev, Makhina, and Stroykov [**Ошибка! Источник ссылки не найден.**], which demonstrates the real scale of investment activity of the Uzbek diaspora, and the work of Ilyasov [5], which reveals the legal mechanisms for protecting these investments, is evident. Without effective conflict-of-laws rules and bilateral investment agreements incorporating these connecting factors, the economic potential generated by the diaspora remains legally vulnerable. This, in turn, runs counter to the policy course pursued by President Shavkat Mirziyoyev toward deepening a comprehensive strategic partnership with the Russian Federation.

Conclusion

The conducted research allows for several interrelated conclusions to be drawn. First, as convincingly demonstrated by Veliev, Makhina, and Stroykov, the Uzbek diaspora in the Russian Federation is not merely a socio-cultural phenomenon, but a powerful economic actor. The figures speak for themselves: 3,156 organizations with Russian capital operating in Uzbekistan, 967 new enterprises established in 2022 alone, a trade turnover of USD 7,930 million (2023), and, most importantly, USD 16.1 billion in remittances (17.8% of Uzbekistan's GDP). However, these substantial financial flows remain legally vulnerable in the absence of a robust contractual and legal framework. Existing mechanisms of 'people's diplomacy,' interregional roadmaps, and

intergovernmental statements, despite their political significance, do not substitute for concrete legal obligations on investment protection, including arbitration clauses and provisions on fair and equitable treatment.

Second, as evidenced by the analysis of Ilyasov's work, the legal protection of investments made by Uzbek entities abroad is impossible without the effective application of conflict-of-laws rules. Such connecting factors as the personal law of a legal entity (*lex societatis*, Article 1175 of the Civil Code of the Republic of Uzbekistan), the law chosen by the parties (*lex voluntatis*), the law of the place where damage occurs (*lex loci delicti commissi*, Article 1194 of the Civil Code), and the law of the seller's country (*lex venditoris*, Article 1190 of the Civil Code) establish the foundation for resolving conflicts between the legal systems of Uzbekistan and host states (primarily the Russian Federation). It is precisely bilateral investment agreements that are intended to incorporate these conflict-of-laws principles into concrete treaty obligations, thereby ensuring predictability and stability for Uzbek investors, including major entrepreneurs such as Alisher Usmanov and Iskander Makhmudov, as well as for millions of ordinary labor migrants whose remittances constitute the economic backbone of many Uzbek households.

Third, it is essential to emphasize the consistent and purposeful policy of the Government of the Republic of Uzbekistan, under the leadership of President Shavkat Mirziyoyev, aimed at creating a favorable investment climate and ensuring legal protection for both foreign investments in Uzbekistan and outbound investments of Uzbek entities. The adoption of the Law 'On Investments and Investment Activity' (December 25, 2019), the Presidential Decree 'On Measures for Further Improvement of Interethnic Relations' (May 23, 2017, No. UP-5046), and the Action Strategy on Five Priority Areas of Development (2017–2021) has established the institutional foundation for the application of conflict-of-laws rules and the development of diaspora policy. As rightly noted by Ilyasov, Uzbek legislation should continue to draw on progressive international experience, including expanding the scope of party autonomy and adopting a mixed approach to determining the law applicable to legal entities.

Summarizing the correlation between the two analyzed studies, it can be confidently asserted that the role of bilateral investment agreements in protecting the investments of Uzbek entities abroad remains critically underestimated. The conclusion of a specialized bilateral investment agreement between Uzbekistan and the Russian Federation, one that takes into account the specific features of diaspora-driven investments (including the protection of remittances, arbitration mechanisms for small and medium-sized enterprises, and clearly defined conflict-of-laws connecting factors), is not merely desirable, but an urgent necessity.

Such a step would allow economic relations between the two countries to transition to a qualitatively new level, moving from political declarations to guaranteed legal protection. This fully aligns with the policy course of President Shavkat Mirziyoyev toward deepening a comprehensive strategic partnership and alliance with the Russian Federation. Without such a legal foundation, the substantial investment potential of the Uzbek diaspora risks remaining only partially realized, while the investors themselves remain exposed to administrative and economic risks.

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