

Regulation of International Trusts in the Republic of Uzbekistan

Khakimov Dilshodjon Rakhmonalievich

Associate Professor of Fergana State University

Abstract: The article reveals the main aspects and principles of trust functioning in international private law. An assessment of its role and significance in international business practice has been given. An analysis of similar institutions to the trust institution in the legislation of the Republic of Uzbekistan has been conducted. The peculiarities of recognizing international trusts in the Republic of Uzbekistan are considered. Conclusions are drawn about the importance of trust for international business and recommendations for its use in various situations.

Key words: Trust; international business; property protection; business management; tax planning; trust management; civil law; international trust model; public order.



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INTRODUCTION

Trust has not lost its relevance and continues to develop in the modern world. The stability of a trust is due to the possibility of achieving many goals through its establishment. In the context of globalization, economic, political, and cultural integration, the multifunctionality of this institution is clearly manifested in the conclusion of international agreements. With the help of trust, it is possible to protect any assets; ensure the proper, careful use of property through professional management; prevent possible external influence; guarantee confidentiality when conducting international transactions.

It should be noted that trusts are used to achieve illegal goals, for example, to reduce the tax burden of property maintenance and the so-called "withdrawal of assets." It is precisely this unscrupulous goal that is often perceived as the dominant one in the creation of trusts in modern Uzbekistan.

However, is it reasonable to completely abandon the institution of trust and not adopt norms on the regulation of international trusts, justified by the presence of such a goal? As if not! The possibility of achieving goals that contradict the letter or spirit of the law should be perceived only as one of the reasons for the need for detailed regulation of the procedure for recognizing international trusts in national legislation.

LITERATURE REVIEW AND METHODOLOGY

Trust represents the most important property-legal institution developed by the right of justice [17].

Trusts were established to regulate entrepreneurial relations; but, at the same time, one could observe the use of this institution to ensure other social relations: solving charitable tasks, ensuring social guarantees [18].

Both its actual emergence and legal formalization, the trust institution first found its way in England, being, as R. David notes, "the most important derivative of the right to justice" [19].

Modern researchers have not come to a single understanding of the concept of trust. As noted by N.V. Sokolova, this is due to the specific multifaceted nature and complexity of this legal construct [20].

The structure of trust is not known to the countries of the continental legal system due to its contradiction with such fundamental features of civil law as the unitary structure of property (in contrast to the fragmented property existing in the countries of the Anglo-Saxon system), the existence of a certain list of property rights, the owner's freedom to dispose of the property, etc. [3].

Nevertheless, the national legislation of many countries of continental law contains trust management institutions similar to trusts. As some authors note, in some states they operate quite successfully [4]. As an example, one can cite "*fiducie*" - a structure close in content to trust, uniting the jurisdictions of several countries, including France, Luxembourg, and Switzerland [4]. Another analogue of trust is *foundations*, which have founders and beneficiaries and are registered as legal entities. It is worth mentioning *trovhan* ("*treuhand*") - an institution existing in Germany and *waqf* - a construction of Arab Eastern countries. It is also worth mentioning Liechtenstein, which is known for its detailed "*copying*" of the Anglo-Saxon trust structure into its legislation (without a doubt, with the exception of certain features: for example, the trust in Liechtenstein can be established for an unlimited period, when the English model implies a limit of 80-150 years) [5].

At the same time, the norms adopted to ensure transparency of trusts in many countries represent a new stage in the development of trust regulation. The beginning was laid back in 2015 with the adoption of the Strasbourg Directive (EU) No. 2015/849 of the European Parliament and the EU Council "On Preventing the Use of the Financial System for the Purposes of Money Laundering or Financing of Terrorism" [2], followed by the adoption of the same-named document in 2018 [2]. Rules were introduced aimed at controlling the beneficiaries of the trust (persons in whose favor the trust's activities are carried out), namely - the need to maintain a register of such persons. The introduced norms led to changes in the domestic legislation of European Union countries (including Great Britain, which was one of the member countries at the time the directives were introduced). The above-mentioned legislative changes illustrate the demand for trusts in the modern world and, at the same time, serve as evidence that the regulation of international trusts is still insufficiently detailed in countries that already recognize international trusts (as these changes, to a greater extent, relate to trusts established for business development purposes, which is one of the many types of trusts).

DISCUSSION AND RESULTS

Today, there is an institution of trust management in the Republic of Uzbekistan, which is an analogue of trust. In recent years, the government has adopted several documents aimed at developing this sphere.

Basic regulatory and legal regulation of the conclusion of trust management agreements is carried out by Articles 849 - 861 of the Civil Code of the Republic of Uzbekistan.

Thus, in 2003, the Cabinet of Ministers of the Republic of Uzbekistan approved the Resolution "On Measures to Improve Corporate Governance of Privatized Enterprises," which outlined the main provisions on the activities of commercial organizations and commercial banks that can engage in the trust management of investment assets, provided for the basic concepts and rights and obligations of the parties to the trust management agreement, the features of the activities of management companies, the principles of forming trust management of government securities, and other issues.

Also, in 2011, the Cabinet of Ministers of the Republic of Uzbekistan approved the Resolution "On the Procedure for Payment for Services of Trust Management of State Shares and Representatives of the State with a Special Right to Participate in the Management of Joint-Stock Companies," which regulates the formation of funds for payment for the services of trust managers and state representatives, as well as the calculation of the cost of services of trust managers and state representatives.

Thus, the legal framework for trust management in the Republic of Uzbekistan is in the development stage, but there are already some laws and regulations regulating the specifics of this area of activity.

Also, the analogue of trust exists in the legislation of the Republic of Uzbekistan in the form of trust management. Topildiyev.B. argues that "the trust management agreement is a relatively new institution for the field and science of civil law in Uzbekistan. Moreover, this institution is relevant in the context of differences in the understanding of property rights in the continental and Anglo-American legal systems, as well as the harmonization of legal systems at present. At the same time, in the Anglo-American legal system, defining the positive and negative aspects of a trust agreement, called a trust and included in the system of material and legal institutions located within the system of contractual constructs of continental law, and implementing them in the legislation and law enforcement practice of Uzbekistan is one of the tasks of the civilist sciences" [6]. However, the differences between trust and fiduciary management outweigh similarities in both quantity and quality. First of all, as noted above, the Uzbek institution of trust management is enshrined as a mandatory relationship. According to Article 849 of the Civil Code of the Republic of Uzbekistan (paragraph 1 of point 1), under a trust management agreement, the founder transfers the property to the trust manager for trust management, and he, in turn, undertakes to manage it in the interests of the founder or other beneficiary [7]. Moreover, "trust management" is not included in the closed list of property rights contained in the legislation of Uzbekistan. The only objection to the mandatory nature of trust management relations may be the existence of the right of the trustee to exercise the protection of ownership, which is usually granted to the owners of property rights. However, some scholars, including M.I. Braginsky and V.V. Vitryansky, see here the analogy of protecting the rights of the pledgee and understand the right to a real claim as "a legislative technique that does not affect the obligatory-legal nature of the relationship" [8].

In paragraph 2 of point 1 of Article 849 of the Civil Code of the Republic of Uzbekistan, it is established that "the transfer of property to trust management does not entail the transfer of ownership rights to it to the trust manager." That is, based on the narrow interpretation of the norm and spirit of the continental legal system, the right of ownership entirely remains with the person transferring the property - the founder of trust management [9]. Such a difference can be called conceptual: in English trust, no one is the full owner of the entrusted property, because the title is divided between two persons: the trustee and the trustee, which is completely alien to continental law - here it is impossible to establish several ownership rights to the same property. A similar provision regarding the trusted owner being the "title owner" of the trusted property is established by the 1985 Hague Convention (Subparagraph b) of Article 2). Also, the 1985 Hague

Convention establishes the transfer of property trust to control and its authority to manage, use, and dispose of, which collectively indicates that property is transferred to trust ownership, despite the fact that this is not formally indicated in the text of the document (the term "property" itself is also avoided) [10].

It is also noteworthy that for the establishment of trust management, a written agreement is required, i.e., the founder receives a counter-submission. This explains its main difference from the English trust, as establishing it requires only the will of the founder. At the same time, the international trust model must be established in writing (Article 3 of the 1985 Hague Convention). The approach of the Uzbek legislator to the issue of state registration of trust management, which is mandatory in the case of transfer of real estate to management, also corresponds to the 1985 Hague Convention.

As for the duration of the trust agreement, it is limited to a maximum period of 5 years (except for certain types of property), while the English trust model, as mentioned above, provides for a significantly longer period, up to 150 years.

Another distinctive aspect of trust management of property is that it is important to understand that the relationship is based on mutual trust, and through this "empty" commodity - in exchange for the inclusion of property in civil-legal circulation, market relations, indicating that the exchange of material goods occurs in economic circulation.

Let's move on to the subject and subject compositions of trust and fiduciary management. Regarding property that can be transferred to trust management, it should be noted first and foremost that it, like the trust property, must be separated from personal property. Just as the list of property that can be transferred to a trust, the list of "trusted management objects" enshrined in Article 851 of the Civil Code of the Republic of Uzbekistan has some exceptions (but such exceptions have been developed in judicial practice regarding trusts). However, exceptions are different. For example, according to Uzbek law, money cannot be transferred to trust management; the English trust does not impose such a restriction.

The status of the transferred property in terms of its protection from third parties is also different: if the English trust is characterized by a high degree of autonomy, that is, it is difficult to terminate or cancel it in any way, then the Uzbek model of trust management provides only for the protection of the property from the creditors of the management founder and the unlawful actions of the trustee. The international trust model takes a characteristic intermediate position and provides for the absolute protection of the trust's property from the trust and its creditors [10].

As for the founder of trust management, they can be a natural or legal person, or a public legal entity, as well as, under certain circumstances, specific entities (such as guardianship and trusteeship bodies). In any case, such a person must be the owner of the property; therefore, the right to establish trust management does not exist for unitary enterprises and institutions that have only limited property rights. A similar rule applies to English trusts - its founder can be a natural or legal person, taking into account the criteria developed by judicial practice. It is also of great interest that in the relationship between the founder of management and the trustee, there is a connection similar to the relationship between the founder ("*settler*") and the trustee - "*duty of care*." The legislation of the Republic of Uzbekistan establishes the obligation to compensate for losses and lost profits in the event of improper care for the interests of the beneficiary or the founder.

Summarizing, we emphasize that due to the non-recognition of trust by the legislation of continental law countries, structures analogous to trust are being created. In modern Uzbekistan, trust management is often recognized as such a structure. But it, as shown above, has almost no features similar to the English trust.

Is trust management similar to the international trust model? Undoubtedly, it has more common characteristics with it, which even allows some scholars to recognize the possibility of qualifying trust management as a trust in accordance with the 1985 Hague Convention [11], and courts to qualify a trust established abroad as a trust management. However, there are also significant differences, in particular, the status of the trusted owner in relation to the property and the status of the property itself transferred to trust management or trust.

This refutes the thesis about the possibility of "replacing" trust with trust management and demonstrates the need for further development of legislation in the field of trusted ownership.

As repeatedly noted above, due to the spread of the practice of using a trust throughout the world, the courts of the continental legal system states, whose legislation does not know the trust, have encountered the problem of its recognition and regulation. Among such states is the Republic of Uzbekistan, whose legislation does not include the institution of trust.

Consider the situation: an individual - a citizen of the Republic of Uzbekistan - establishes a trust in the territory of Guernsey and transfers to it movable property, including shares of Uzbek organizations. As a trustee, the founder appoints a person located in the territory of Guernsey, and as beneficiaries - their children who are citizens of the Republic of Uzbekistan and reside in Uzbekistan. First of all, let's answer the question - is it possible (legal) for this person to establish such a trust? The answer is positive, despite the fact that the national legislation of the Republic of Uzbekistan does not include the concept of "trust," citizens of the Republic of Uzbekistan have the legal capacity to become founders and beneficiaries of trusts abroad. In accordance with the Civil Code of the Republic of Uzbekistan, individuals have the right "to conclude any transactions that do not contradict the law and to participate in obligations" and "to have other property and personal non-property rights" (Article 18). A transaction aimed at trust institutions abroad, not specified in the Civil Code of the Republic of Uzbekistan and not directly prohibited by it, falls under "any transaction that does not contradict the law." At the same time, a legal entity could establish a trust abroad or become a beneficiary of such a trust only in certain cases. For example, if an organization is commercial and, like an individual, may have civil rights and obligations within the framework of carrying out any activity not prohibited by law. Or, if the establishment of a trust is necessary to achieve the goals of the organization's activities established in the founding documents.

Can individuals and legal entities of the Republic of Uzbekistan apply foreign law to the established trust? Unfortunately, Section VI of the Civil Code of the Republic of Uzbekistan does not contain a direct answer to this question, causing the courts of the Republic of Uzbekistan to encounter uncertainty, and disputes arise in the doctrine. However, it should be noted that, according to Articles 1158 and 1159 of the Civil Code of the Republic of Uzbekistan, the agreement of the parties on the choice of law must be expressed explicitly or directly arise from the terms of the contract and the circumstances of the case considered together, if the legal concepts are not known to the law of the Republic of Uzbekistan as the country where the dispute is being considered, or are known under a different name or with a different content and cannot be determined by interpretation according to the law of the Republic of Uzbekistan, then when qualifying them legally, the law of a foreign state may also be applied.

Two approaches can be distinguished, according to the first of which, to determine the applicable law to a trust, it is necessary to refer to the provisions on institutions similar to trusts. Among such institutions, legal entities (Article 1175 of the Civil Code of the Republic of Uzbekistan), contracts (Articles 1189-1190 of the Civil Code of the Republic of Uzbekistan), and unilateral transactions (Article 1193 of the Civil Code of the Republic of Uzbekistan) are distinguished.

Another approach reduces to the fact that in each individual case, it is necessary to establish with which right the trust has the closest connection. Such a right should be the right specified in the

trust establishment act, despite the fact that it may not know the trust institution, as it does in Uzbekistan [12]. In other words, the possibility of choosing the right by the founder is not only recognized, but also accepted as the main factor. In the absence of a choice of applicable law in the institutional act, the criteria for determining the close relationship expressed in the 1985 Hague Convention [13] are most effective. In our opinion, compared to the first approach, this approach is more reasonable and justified.

Let us proceed to the analysis of the question of what property can be transferred to an international trust by a citizen of the Republic of Uzbekistan - the founder. In the given example, the person transferred movable property. It seems that this is permissible, since, as a general rule, movable property can be freely transferred to a trust, provided that no damage is caused to third parties. This stems from Article 1189 of the Civil Code of the Republic of Uzbekistan, which allows individuals and organizations of Uzbekistan to choose the applicable law for the contract concluded between them; the chosen law applies to the rights and obligations of the parties under the contract. Consequently, nothing prevents the parties from agreeing on the transfer of movable property to a trust abroad by choosing foreign law familiar with the structure of the trust. As for immovable property located in the territory of the Republic of Uzbekistan, its transfer to an international trust is impossible. This is due to the fact that Article 1190 of the Civil Code of the Republic of Uzbekistan contains an imperative norm establishing the right of the Republic of Uzbekistan as a right subject to application to contracts with respect to immovable property of the Republic of Uzbekistan. That is, for example, a citizen of the Republic of Uzbekistan cannot transfer their property in the territory of Uzbekistan to a trust in Guernsey, as this requires obtaining the consent of the foreign citizen to the trust, which leads to the consideration of the transfer act as a transaction and, consequently, the mandatory application of Uzbek law. At the same time, this norm does not apply to contracts for the transfer of real estate located outside the territory of Uzbekistan - in this case, it is allowed to choose the applicable law or the contract will be regulated by the law determined by the principle of the closest connection.

It is important not only to determine what can be transferred to the trust, but also how to formalize the transfer act. In the case described above, the form of the act of transfer of property depends on where such an act is performed, which follows from Article 1183 of the Civil Code of the Republic of Uzbekistan (the form of the transaction must be subject to the law of the country that applies to the transaction itself, or at least (to avoid recognizing the transaction as invalid) the requirements of the law of the country where the transaction was made must be observed). This is due to the fact that the trust in the analyzed case is established by an individual in the interests of their relatives, that is, it does not have an entrepreneurial character. If a transaction is carried out within the framework of entrepreneurial activity, the form of the act must comply with the mandatory requirements of the legislation of the Republic of Uzbekistan on the form of transactions (in particular, on written form).

What can prevent the recognition of the aforementioned trust by the court of the Republic of Uzbekistan, given that the individual has not committed any actions contrary to Uzbek legislation: they possess the necessary legal capacity, have only transferred movable property to the trust, and have satisfied other requirements? To answer this question, let us turn to Articles 1164 and 1165 of the Civil Code of the Republic of Uzbekistan, according to which the application of foreign law in the Republic of Uzbekistan must not contradict the imperative norms of the Republic of Uzbekistan or public order.

The legislation of the Republic of Uzbekistan does not contain a list of directly applicable norms, but establishes two criteria for their determination: firstly, a norm is recognized as imperative if it contains an indication of this in the norm itself; secondly, a norm may be recognized as imperative due to its special significance.

Public order is another basis for refusing to apply foreign law to international trust relations. If the court establishes that the establishment of a trust contradicts the foundations of the Republic of Uzbekistan's legal order, the law of the Republic of Uzbekistan will be applied. The following situation can serve as an example: a citizen of the Republic of Uzbekistan, obligated to disclose information about all his property, income, and obligations of a property nature, attempts to conceal information by transferring property to a foreign trust. Here, the court of the Republic of Uzbekistan, in order to ensure the performance of the official's duties, may refuse to apply the foreign law regulating the trust established by it, citing the reservation on public order. At the same time, it should be noted that the absence in the legislation of the Republic of Uzbekistan of norms or legal institutions analogous to the norms and legal institutions of applicable foreign law cannot be grounds for the court to apply reservations on public order. In other words, the fact that the institution of trust is unknown to Uzbek legislation does not grant the court the right to refuse to apply foreign law due to a violation of public order.

Thus, a citizen of the Republic of Uzbekistan or a legal entity (if certain conditions are met) can become a founder or beneficiary of an international trust. Movable property or immovable property registered abroad may be transferred to such a trust. The deed of transfer of property must be properly executed and comply with the requirements of applicable law. As for the question of choosing the law applicable to the trust, it remains open: some experts propose using the criterion of the closest connection, based on the law specified in the trust establishment act. In any case, for the functioning of an international trust, the application of foreign law to it is necessary, which may be permitted in the Republic of Uzbekistan, provided that the relations arising from the trust do not contradict the imperative norms of Uzbekistan and public order.

Summarizing, we emphasize: currently, there is no institution in the Republic of Uzbekistan similar to the English or international trust model. It can be noted that the trust management of property in Uzbekistan as an institution of legal regulation of relations has not received widespread application in civil law practice. The period that has passed since the introduction of the management institute into legislation to the present day, the receipt of material benefits through a trust management agreement, and the status of inclusion in civil circulation are difficult to encounter in practice.

Individuals and organizations of the Republic of Uzbekistan do not have the legal capacity to establish trusts in the territory of the Republic of Uzbekistan, however, they can be founders and beneficiaries of trusts abroad - international trusts. At the same time, the procedure for regulating such trusts in Uzbekistan, in particular, by the courts of the Republic of Uzbekistan, when a dispute arises, includes a number of uncertainties, for example, regarding the procedure for determining the law applicable to the trust. In this regard, we believe it is possible to distinguish three main ways of developing trust legislation: changing national legislation by introducing the institution of trust; refusing any changes; joining the 1985 Hague Convention to establish a unified and effective mechanism for recognizing international trusts.

First of all, let's consider the obstacles to the introduction of the trust institution into the civil legislation of the Republic of Uzbekistan. Certainly, some of them were touched upon above within the framework of a comparative analysis of trust management and trust, as well as an analysis of the formation and features of English trust. In this part of the study, we propose to elaborate on the reasons for the impossibility of including trust in the legislation of the Republic of Uzbekistan, supplementing the conclusions made on this issue above. Thus, the fundamental problem that all specialists point to is the discrepancy between this institution and the continental legal system. The continental legal system to which the Republic of Uzbekistan belongs does not know the division of property rights into "dozens of different legal powers," developed during the centuries-long development of precedent law traditions [14].

Dzhdev D.V. [15] notes the incompatibility of the trust institution with European civil law, indicating that no country with a mixed or Romano-Germanic legal system has been able to introduce a trust into its system without significant transformations. Other scholars, assessing the prospects for introducing a trust into the legislation of the Republic of Uzbekistan, among other things, present the following arguments: the structure of the trust does not allow for the protection of the bona fide acquirer, which is a characteristic feature of the law of the Republic of Uzbekistan, since the beneficiary of the trust is usually granted the right to pursue the trust's property illegally alienated by the manager. Such a right to protection granted to the beneficiary requires serious consideration from the counterparties.

Additionally, experts often cite the fact that trusts are used as a tool to achieve illegal goals, such as reducing the burden of maintaining property and avoiding tax consequences of receiving income from it ("withdrawal of assets") [15]. As an illustration, the case *M v M & Ors* (2013) [16] can be cited, in which the court, when deciding on the amount of the spouse's property during divorce, took into account his property transferred to offshore jurisdictions ("indirect" trust was established). In connection with the foregoing, we believe that the argument about the possibility of using trusts for unlawful purposes becomes irrelevant.

Nevertheless, it cannot be denied that there are significant obstacles to the introduction of the trust institution into the legislation of the Republic of Uzbekistan, which cannot be ignored. Not all of them were described above, but perhaps they are so numerous that it is impossible to list them all: obstacles are reduced to historical, cultural, political, and many other socio-economic reasons - differences between the continental system and the common law system.

At the same time, it is impossible not to take into account the challenges of our time, which are expressed in the global spread of trust use. We believe that the states of the continental legal system should recognize that the regulation of trusts is necessary. This is not about "domestic" trusts, which are difficult to implement due to the peculiarities of the national system described above, but about international trusts, in which Uzbek individuals, organizations, or property are involved in one way or another. The most "soft" way to regulate international trust relations, taking into account the peculiarities of the continental legal system, is to join the 1985 Hague Convention.

For example, Professor Yerpyleva N.Yu. and Kasatkina A.S., analyzing the experience of recognizing hereditary trusts in various countries of the continental legal system, indicate as one of the conclusions that the courts of the states that joined the 1985 Hague Convention have lost the need to search for similar trusts in their national legislation for the purpose of recognizing a particular trust. Undoubtedly, this contributed to the simplification of litigation for trusts involving parties from Roman-German system countries or property in the territory of such countries. Moreover, the implementation of such a task becomes less difficult due to the presence of foreign experience of similar countries (from the point of view of the legal system), for example, Italy, Switzerland, Luxembourg, the Netherlands, and others.

Summarizing, we emphasize our position: due to the trend of widespread adoption of the trust institution, which cannot be ignored, the legislator of the Republic of Uzbekistan needs to determine the further path of development of legislation. There are many obstacles to the introduction of the trust institution due to the differences between the systems of general and continental law. The seriousness of such obstacles was manifested, in particular, in the attempt to introduce a trust into the legislation of the Republic of Uzbekistan at the end of the last century, which was unsuccessful. Therefore, joining the 1985 Hague Convention seems most optimal, which, on the one hand, can establish an effective mechanism for recognizing international trusts with an Uzbek element, and on the other hand, does not obligate the implementation of the trust institution into the domestic legislation of the state.

CONCLUSIONS AND PROPOSALS

The following conclusions and suggestions can be drawn:

- 1) The concept of trust remains a debatable issue - there is no unified agreed approach to it even in common law countries where trust emerged. At the same time, everyone unconditionally agrees that trust was "born" by the right of justice, and its essence lies in the transfer of property for the benefit of certain persons or for achieving a certain goal. The term "international trust" means not a type of trust, but an indication of the presence of a foreign element (e.g., a party or property) in it.
- 2) Establishment of a trust can be carried out both verbally and in writing. The first form is characteristic of Anglo-Saxon legal systems and can be used in such countries due to the peculiarities of legal proceedings. The second form is welcomed by the countries of the continental legal system and the international community. Trust instruments - the trust agreement and the letter of wishes - are subject to requirements regarding their content, the fulfillment of which determines the recognition of the trust as valid. The mandatory parties to the trust are the founder, beneficiary, and trustee.
- 3) Analyzing the experience of recognizing trusts in the states of the continental legal system before the adoption of the 1985 Hague Convention, the following conclusion can be drawn: such states, attempting to regulate international trusts, usually tried to assimilate the trust with an institution already existing in their legislation (for example, with a gift or commission agreement), as a result of which inconsistent judicial practice was formed. Thanks to the 1985 Hague Convention, this problem, along with many others, was solved. This international treaty is characterized by the flexibility of its provisions, which allows for its effective application by both common law and continental law countries.
- 4) The Uzbek construction, which is sometimes recognized as the analogue of trust, is trust management. Trust management differs from both the English trust model and the 1985 Hague Convention trust model (while there are more similarities with the international trust model) in many aspects, making it impossible to call it a trust analogue. Due to the presence of many significant differences, the inheritance fund cannot be recognized as identical to the trust institution.
- 5) Thus, an individual or legal entity of the Republic of Uzbekistan does not have the legal capacity to establish a trust in the territory of the Republic of Uzbekistan, nor a truly similar institution, but can become a founder or beneficiary of an international trust. We believe that such a trust can be recognized by the court of the Republic of Uzbekistan if it is established that it does not contradict public order or imperative norms, and a number of conditions are also observed. Namely: movable property and (or) immovable property registered abroad are transferred to a trust abroad; the deed of transfer of the property must be duly executed; other conditions must be met depending on the specific trust (for example, it may be necessary to obtain the consent of the spouse for the transfer of the property). Regarding the applicable law to a trust, there is no unified position on its definition: some experts propose using the criterion of the closest connection.
- 6) Due to the above, the development path of the legislation of the Republic of Uzbekistan on trusts can be narrowed to the following: not taking any measures; introducing the institution of trust into national legislation ("domestic" trusts); joining the 1985 Hague Convention. The first perspective seems ineffective, as it essentially equals ignoring the global trend of using trust. The introduction of the institution of trust into national legislation also seems to be not a good development due to the already existing negative experience and numerous substantial differences between "*common law*" and the continental legal system. Accession to the 1985 Hague Convention, however, we believe may yield positive results in the form of addressing the

problems arising in the recognition of international trusts (for example, it will allow for the resolution of the dispute regarding the definition of applicable law to trusts).

The conclusions drawn can be useful for governments dealing with legislative and regulatory issues in the field of international transactions. Studying the differences in legal systems can help them improve legislation and simplify processes.

Overall, the article's materials emphasize the importance of understanding the differences in legal systems for successful work in the international arena. Proper accounting for these differences can ensure more reliable property protection and more effective property management in international law.

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