



The Essence of the Constitutional Changes Regarding the Institute of International Treaties of the Republic of Uzbekistan

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Abstract: Today, the Constitution is remaining as one of the main factors of ensuring the political and social stability of the state. In the conditions of modern globalization, world countries are actively looking for a model of constitutional development. Therefore, over the past 30 years, more than 100 countries around the world have undergone constitutional reforms and 57 countries have adopted a new constitution. There were Mexico, New Zealand, Brazil, Switzerland, Austria, Israel, Chile, Colombia, Georgia and India among the ten countries which have the most amendments and additions to the Constitution. Most of the constitutional reforms are carried out within the framework of modernization of the state and society or prevention of political, economic or social crises, elimination of their consequences.

The current unsustainable world, the complex situation around us requires us to approach the fate of our Motherland with greater responsibility and make strategic decisions that cannot be delayed. In order to strengthen the fact that the promotion of human dignity is a constitutional duty and a priority task of state authorities, on May 20, 2022, a Constitutional Commission was formed to formulate proposals for amendments to the Constitution and implement organizational measures, and its composition and tasks were determined. As per the final proposals formed by this commission on the basis of suggestions and opinions of the general public, a draft of the new version of the Constitution of the Republic of Uzbekistan was developed.

Based on the idea that "the people should be the sole source and author of the Constitution", a public discussion was held on the draft of the new version of the Constitution. More than 220,000 proposals for its improvement were received from the total population, and one out of every four of them was included in the draft. During the preparation of the draft of the new version of the Constitution, more than 400 international documents adopted by the UN, OSCE, SCO, EU, The Organization of Turkic States (OTS) and other international organizations, constitutions of about 190 countries were carefully analyzed¹.

The number of articles in the Constitution of Uzbekistan is increased from the current 128 to 155, and its norms from 275 to 434, 65% of the text of the Basic Law was renewed based on the suggestions made by the population of the Republic. In addition to issues related to the provision of human rights by citizens, protection of the honor and dignity of citizens, strengthening of social protection, development of science and education, further strengthening of the inviolability of personal property, environmental protection, clarifying the powers of state authorities, norms of international relations have also taken place.

2.1 ¹ <https://senat.uz/plenary-sessions/post-545>

In particular, Article 15 of the draft constitution, which is being updated, provides that International treaties of the Republic of Uzbekistan, along with the generally recognized principles and norms of international law, shall be an integral part of the legal system of the Republic of Uzbekistan. If an international treaty of the Republic of Uzbekistan establishes other rules than those stipulated by the law of the Republic of Uzbekistan, the rules of the international treaty of the Republic of Uzbekistan shall apply. With this, in turn, the priority of the International Treaties of the Republic of Uzbekistan is established at the level of the Constitution.

Today, in Uzbekistan and other countries, the generally recognized principles and norms of international law as a component of the legal system are defined in directly applicable laws, constitutional court decisions, documents on the ratification or accession to international agreements. Determining the principle of the priority of international agreements directly at the level of the Basic Law will be important for Uzbekistan's commitment to international obligations, for it to appear as a reliable partner in the eyes of the international community, and ultimately to increase the international prestige of the country.

In fact, Uzbekistan, as a full-fledged subject of international law, is a member of more than 100 prestigious international organizations, has established diplomatic relations with more than 140 countries, joined more than 4.5 thousand international treaties and more than 80 international documents on human rights.

The field relations in our country are based on the Vienna Convention on the Law of International Treaties (1969), the Vienna Convention on Consular Relations" (1963), Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (1970)) and is regulated by nationally adopted laws "On International Treaties of the Republic of Uzbekistan" (2019), "On Approving the Concept of Foreign Political Activity of the Republic of Uzbekistan" (2012) and a number of other legislative acts.

Determining the above-mentioned norm in the Constitution, in turn, makes it possible to strengthen the legal basis for the implementation of international agreements, to further expand diplomatic relations between countries, and to form a balanced, multifaceted system of strategic cooperation with the world's leading countries and international organizations.

It should be noted that the Basic Law acknowledges that the national legal system of the Republic of Uzbekistan includes not only international law, but its universally recognized principles and norms.

The universally recognized principles of international law are the most important and universally binding norms that represent the main content of modern international law and are of great importance in the implementation of its goals. Generally recognized principles are the principles supported by the world community and strengthened in relevant international legal documents².

It is known that before the adoption of the UN Charter, the issue of the main principles of international law was considered mainly in the Doctrine of International Law. Currently, the main principles of international law have been announced and these principles are detailed in Article 2 of the UN Charter³ and in the Helsinki Final Document of the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States in accordance with the Charter of the UN (August 1, 1975)⁴ and these documents contain the following principles:

1) Refraining from the threat or use of force; 2) Non-intervention in internal affairs; 3) Peaceful settlement of disputes; 4) Co-operation among States; 5) Equal rights and self-determination of peoples; 6) Fulfilment in good faith of obligations under international law; 7) Sovereign equality, respect for the rights inherent in sovereignty; 8) Inviolability of frontiers; 9) Territorial integrity of

2.1 ² D.Musayev D.Sattarov A.Muminov. Xalqaro huquq. O'quv qo'llanma. O'zbekiston Respublikasi Davlat bojxona qo'mitasi Bojxona instituti. Toshkent-2020

http://lib.jizpi.uz/pluginfile.php/8419/mod_resource/content/0/%D0%A5%D0%90%D0%9B%D2%9A%D0%90%D0%A0%D0%9E%20%D2%B2%D0%A3%D2%9A%D0%A3%D2%9A%20%D0%8E%D2%9B%D1%83%D0%B2_%D2%9B%D1%9E%D0%BB%D0%BB%D0%B0%D0%BD%D0%BC%D0%B0.pdf

2.1 ³ <https://www.un.org/en/about-us/un-charter/chapter-1>

2.1 ⁴ <https://www.osce.org/files/f/documents/5/c/39501.pdf>

states; 10) Respect for human rights and fundamental freedoms. New principles expressing the need to solve universal problems facing the world community (for example, the obligation to protect the environment) are being formed.

The strengthening of not all norms of international law, but the inclusion of such universally recognized principles and norms in the national law in the Constitution proves once again that the Republic of Uzbekistan is a full-fledged subject of international law, a state with its own opinion and its rightful place in international politics. Also, the renewed Constitution envisages the inclusion of international treaties of the Republic of Uzbekistan along with generally recognized principles and norms of international law into the national legal system of the Republic of Uzbekistan.

An international agreement of the Republic of Uzbekistan - an international agreement concluded in writing by the Republic of Uzbekistan with a foreign state, international organization or other subject having the right to conclude international treaties, which is regulated by international law, regardless of whether it is contained in one document, in two or more related documents among themselves, as well as regardless of its specific name and method of conclusion (contract, agreement, convention, act, pact, protocol, exchange of letters or notes and other names and methods of concluding an international agreement).

It should be noted that any international agreement is not recognized as an international agreement of the Republic of Uzbekistan. That is, the international agreements that express the consent of the Republic of Uzbekistan to the binding nature of the international agreement by signing, ratifying, confirming, accepting or acceding to the international agreement are included in the national legal system of the Republic of Uzbekistan.

In addition, if the additional conditions stated by the Republic of Uzbekistan regarding the application of certain provisions of the international agreement to the Republic of Uzbekistan at the time of signing, ratification, approval, acceptance or accession to the international agreement regarding the exclusion of these provisions or changing their legal force are accepted by the parties to the agreement, the provisions of the agreement excluded norms cannot be part of the national legal system of the Republic of Uzbekistan.

Accordingly, in part 4 of Article 15 of the New Constitution, the strengthening of the norm that "If an international treaty of the Republic of Uzbekistan establishes other rules than those stipulated by the law of the Republic of Uzbekistan, the rules of the international treaty of the Republic of Uzbekistan shall apply" strengthens the priority of international treaties over national legislation at the level of the Constitution. However, the fact that the international agreement of the Republic of Uzbekistan contains provisions different from the provisions established by the national legislation does not cause the national legislative document to lose its validity and does not lead to its termination. The established rule, in turn, serves as a legal basis for law enforcement agencies to fully apply international law norms within their powers.

The principle of the priority of international treaties from national law is established by UN General Assembly's resolution 56/83 of December 12, 2001. As per the Article 32, the responsible State may not rely on the provisions of its internal law as justification for failure to comply with its obligations under this part⁵.

Article 27 of the Vienna Convention on the Law of International Treaties dated May 23, 1969 also reinforces this norm, according to which the parties may not invoke the provisions of its internal law as justification for its failure to perform a treaty⁶.

Furthermore, in the constitutions of several developed countries, the priority of international law is provided. Article 25 of the **German Constitution** states that "General provisions of international law

2.1 ⁵ https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf

2.1 ⁶ https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf

are part of federal law. They are above the laws and directly create rights and obligations for the residents of the federal territory⁷.

Article 55 of the **French Constitution** also establishes the rule that international treaties or agreements duly ratified or approved take precedence over national laws.⁸

According to Article 96 of the **Spanish Constitution**, international treaties form part of the national legal system once they are officially promulgated. Its provisions can be canceled, changed or suspended only in accordance with the procedure stipulated in the agreements or in accordance with the generally recognized rules of international law⁹.

Article 134 of the **Constitution of Croatia** stipulates that "International Treaties concluded, approved, announced and in force in accordance with the Constitution form part of the internal legal system of the Republic of Croatia and their legal force is superior to the law."¹⁰

Also, in the constitutional practice of the **Philippines**¹¹, **the Czech Republic**¹², **Slovenia**¹³, **Russia**¹⁴, **Kazakhstan**¹⁵ and a number of other countries, it is confirmed that the universally recognized principles and norms of international law are part of the national legal system, and the superiority of international treaties over laws.

2.1 ⁷ <https://www.bundestag.de/gg>

2.1 ⁸ <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000571356/>

2.1 ⁹ <https://www.boe.es/buscar/act.php?id=BOE-A-1978-31229>

2.1 ¹⁰ <https://www.zakon.hr/z/94/Ustav-Republike-Hrvatske>

2.1 ¹¹ <https://www.officialgazette.gov.ph/constitutions/ang-konstitusyong-republika-ng-pilipinas-1987/>

2.1 ¹² <https://www.psp.cz/docs/laws/constitution.html>

2.1 ¹³ <http://pisrs.si/Pis.web/pregledPredpisa?id=USTA1>

2.1 ¹⁴ http://www.consultant.ru/document/cons_doc_LAW_28399/54dd4e1f61e0b8fa47bff695f0c08b192a95f7a3/

2.1 ¹⁵ https://adilet.zan.kz/rus/docs/K950001000_