

CURRENT PROBLEMS OF JUDICIAL PROTECTION OF ENVIRONMENTAL RIGHTS IN THE CONTEXT OF THE TRANSITION TO A GREEN ECONOMY

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Abstract. This article examines the pressing legal problems associated with the judicial protection of environmental rights in the Republic of Uzbekistan in the context of the transition to a green economy. Using normative, comparative legal, systemic-functional, and statistical methods, the study compares national legislation with the Aarhus Convention and the European Union's Environmental Liability Directive. The findings demonstrate that the development of renewable energy, waste recycling, and green investment projects is giving rise to new forms of environmental disputes. However, the right of access to courts, a unified methodology for assessing environmental damage, and the procedure for using environmental assessments and expert opinions as evidence in judicial proceedings involving such disputes remain insufficiently developed. Based on the findings, the article proposes introducing special procedural rules for environmental disputes, adopting a unified methodology for assessing environmental damage, and expanding the public's right to participate in judicial proceedings.

Keywords: *green economy, environmental rights, judicial protection, Aarhus Convention, environmental assessment, administrative proceedings, public participation, environmental damage.*

АКТУАЛЬНЫЕ ПРОБЛЕМЫ СУДЕБНОЙ ЗАЩИТЫ ЭКОЛОГИЧЕСКИХ ПРАВ В УСЛОВИЯХ ПЕРЕХОДА К «ЗЕЛЁНОЙ» ЭКОНОМИКЕ

Аннотация. В статье исследуются актуальные правовые проблемы судебной защиты экологических прав в Республике Узбекистан в условиях перехода к «зелёной» экономике. На основе нормативного, сравнительно-правового, системно-функционального и статистического методов национальное законодательство сопоставляется с Орхусской конвенцией и Директивой Европейского союза об экологической ответственности. Исследование показывает, что развитие возобновляемой энергетики, переработки отходов и «зелёных» инвестиционных

проектов приводит к возникновению новых форм экологических споров. Вместе с тем право на обращение в суд, единая методика оценки экологического вреда, а также порядок использования результатов экологической оценки и экспертных заключений в качестве доказательств при судебном разрешении таких споров остаются недостаточно совершенными. По результатам исследования предложено внедрить специальные процессуальные нормы по экологическим спорам, утвердить единую методику оценки экологического вреда и расширить право общественности на участие в судебном процессе.

Ключевые слова: *зелёная экономика, экологические права, судебная защита, Орхусская конвенция, экологическая экспертиза, административное судопроизводство, участие общественности, экологический вред.*

“YASHIL” IQTISODIYOTGA O‘TISH SHAROITIDA EKOLOGIK HUQUQLARNI SUD ORQALI HIMOYA QILISHNING DOLZARB MUAMMOLARI

Annotatsiya. Mazkur maqolada O‘zbekiston Respublikasida “yashil” iqtisodiyotga o‘tish sharoitida ekologik huquqlarni sud orqali himoya qilishning dolzarb huquqiy muammolari tadqiq etiladi. Normativ, qiyosiy-huquqiy, tizimli-funksional va statistik metodlar asosida milliy qonunchilik Orxus konvensiyasi hamda Yevropa Ittifoqining ekologik javobgarlik to‘g‘risidagi direktivasi bilan qiyoslanadi. Tadqiqot qayta tiklanuvchi energetika, chiqindilarni qayta ishlash hamda “yashil” investitsiya loyihalarining rivojlanishi ekologik nizolarning yangi shakllarini yuzaga keltirayotganini ko‘rsatadi. Biroq bunday nizolarni sud tartibida hal etishda sudga murojaat qilish huquqi, ekologik zararni baholashning yagona metodikasi, shuningdek ekologik baholash va ekspertiza xulosalaridan dalil sifatida foydalanish tartibi hali yetarli darajada takomillashmagan. Tadqiqot natijasida ekologik nizolar bo‘yicha maxsus protsessual normalarni joriy etish, ekologik zararni baholashning yagona metodikasini tasdiqlash va jamoatchilikning sudda ishtirok etish huquqini kengaytirish taklif etildi.

Kalit so‘zlar: *yashil iqtisodiyot, ekologik huquqlar, sud himoyasi, Orxus konvensiyasi, ekologik baholash, ma‘muriy sud ishlarini yuritish, jamoatchilik ishtiroki, ekologik zarar.*

INTRODUCTION

The Concept of Environmental Protection of the Republic of Uzbekistan until 2030, approved by Presidential Decree No. PF-5863 of 30 October 2019, and the Strategy for the Transition to a Green Economy, further developed by Presidential Resolution No. PQ-436

of 2 December 2022, have made environmental modernization one of the priorities of national economic policy [1, 2]. The Uzbekistan–2030 Strategy also identifies water conservation and environmental protection as distinct strategic priorities [3]. Expanding the use of renewable energy sources, improving energy efficiency, developing waste treatment infrastructure, and introducing green finance mechanisms are central components of these policy documents.

However, greening the economy does not in itself guarantee a reduction in environmental violations. The construction of large solar and wind power plants, the location of waste-treatment facilities, and activities undertaken within green bond and investment projects may conflict with the interests of local communities, land and water use, and biodiversity conservation. Consequently, alongside traditional environmental disputes involving pollution and unlawful resource use, a new category of disputes connected with green projects is emerging, posing novel challenges to existing judicial and legal mechanisms.

Article 49 of the Constitution of the Republic of Uzbekistan guarantees everyone the right to a favourable environment and reliable information about its condition [4]. Article 50 establishes the duty of citizens to treat the natural environment with care, while Article 55 declares land, water, flora, fauna, and other natural resources to be national wealth subject to rational use [5, 6]. Effective implementation of these constitutional guarantees, particularly through judicial remedies, is therefore one of the central concerns of contemporary environmental law.

On 11 March 2025, by Law No. ZRU-1045, the Republic of Uzbekistan acceded to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention) [7]. Accession requires Uzbekistan to bring judicial protection available to individuals and public associations in environmental matters into conformity with international standards. At the same time, Law No. ZRU-1036 of 24 February 2025 introduced a revised framework for environmental expert review, environmental impact assessment, and strategic environmental assessment [8]. Because these two statutes have not yet been fully tested in judicial practice, their procedural implications warrant close scholarly examination.

According to the Ministry of Ecology, Environmental Protection and Climate Change of the Republic of Uzbekistan, 44,500 persons were found to have violated environmental legislation in 2024. Administrative fines of UZS 49 billion were imposed, and environmental damage amounting to UZS 14 billion was assessed [9]. Although these figures demonstrate the prevalence of environmental offences, available information does not sufficiently clarify the extent to which the assessed amounts were recovered through judicial proceedings or the methodologies used to quantify the damage.

RESEARCH METHODOLOGY

The normative corpus of the research comprises the Constitution of the Republic of Uzbekistan; the Laws “On Environmental Control” [10] and “On Public Oversight” [11]; the Code of the Republic of Uzbekistan on Administrative Court Proceedings [12]; the Civil Code [13]; the Code of Administrative Responsibility [14]; and Laws Nos. ZRU-1036 [8] and ZRU-1045 [7]. The Aarhus Convention [15] and Directive 2004/35/EC of the European Parliament and of the Council on environmental liability [16] were examined as comparative legal materials.

The normative method was used to clarify the meaning and relationship of the concepts of environmental rights, environmental damage, judicial protection, and environmental expert opinions. The comparative legal method enabled national regulation to be assessed against the polluter-pays principle and environmental liability mechanisms developed in European Union law. The systemic-functional method was applied to the full trajectory of an environmental dispute, from filing a claim and conducting an environmental assessment to judicial review, recovery of damages, and enforcement of the judgment. The statistical method was used to analyse the Ministry’s 2024 reporting data [9].

RESULTS

The analysis indicates that the transition to a green economy is creating new challenges for the judicial protection of environmental rights in at least five areas.

First, there is the question of standing to protect the public interest. The third pillar of the Aarhus Convention requires broad access for individuals and non-governmental organizations to challenge environmental decisions [15]. Although Uzbekistan acceded to the Convention in 2025 [7], the Code on Administrative Court Proceedings [12] does not establish sufficiently explicit procedural rules permitting public associations to bring claims in defence of a general environmental interest where their own individual rights have not been infringed. This gap may restrict effective judicial protection when large-scale green energy projects affect local communities.

Second, the monetary valuation of environmental damage remains methodologically complex. Damage calculation is relatively established for conventional violations, such as emissions above prescribed limits. By contrast, there is no unified methodology consistently applied by courts for valuing ecosystem services in the green economy, including the carbon-sequestration capacity of vegetation and losses of biodiversity. As a result, awards for comparable violations may vary substantially between cases, undermining consistent application of the principle of full compensation for damage enshrined in the Civil Code [13].

Third, the evidentiary status of environmental assessment and expert opinions requires clarification. Although Law No. ZRU-1036 regulates environmental expert review and

environmental impact assessment [8], procedural law does not clearly define how such findings should be tested in court, when an independent or alternative expert examination may be ordered, or how an expert opinion relates to the court's own legal conclusions. This creates particular difficulty where individuals or civil-society organizations seek to challenge a favourable environmental assessment issued for a major green project.

Fourth, courts must balance environmental interests against freedom of enterprise in green investment projects. While the State actively promotes the green economy, adjudication of environmental claims concerning such projects requires courts to distinguish legitimate protection of entrepreneurial activity from unjustified impairment of environmental rights. In the absence of clear legal criteria, judicial practice may become inconsistent.

Fifth, the use of digital monitoring and statistical information in litigation remains underdeveloped. The Ministry's 2024 data concerning 44,500 violations, UZS 49 billion in fines, and UZS 14 billion in assessed damage reveal the scale of administratively detected infringements [9]. Yet the absence of open statistics on judicial recovery and enforcement makes it difficult to evaluate the practical effectiveness of judicial protection.

Table 1. Principal types of environmental disputes arising in a green economy and challenges to their judicial resolution

Type of dispute	Regulation under the legislation of the Republic of Uzbekistan	Source of the dispute	Principal challenge to judicial protection
Construction of renewable energy facilities	Article 49 of the Constitution; Article 8 of the Law "On the Use of Renewable Energy Sources"; and the provisions of the Law "On Environmental Expertise, Environmental Impact	Land allocation, impacts on biodiversity, and landscape alteration	Insufficiently defined procedures and time limits for judicial challenges to environmental assessment findings

	Assessment and Strategic Environmental Assessment” governing the environmental assessment of proposed projects		
Failure to comply with environmental commitments under green investment projects	Article 49 of the Constitution; the Law “On Environmental Protection”; and the provisions of the Laws “On Advertising” and “On Competition” concerning misleading information and unfair competition	Unsubstantiated environmental claims (<i>greenwashing</i>) and the use of incentives and subsidies	Underdevelopment of public-interest litigation and collective-action mechanisms
Operation of waste-treatment and disposal facilities	Articles 14, 22, 27 and 28 of the Law “On Waste”; and the provisions of the Law “On Environmental Protection” concerning environmental	Pollution of air, water or soil resulting from facility operations	Absence of a unified methodology for the monetary valuation of environmental damage

	damage and compensation		
Disputes concerning industrial greenhouse gas emissions and carbon units	Article 49 of the Constitution; and the provisions of the Law “On the Limitation of Greenhouse Gas Emissions” concerning emissions accounting, verification of green projects and the Carbon Units Registry	Disagreements concerning emission indicators and the accounting and disposal of carbon units	Lack of specific procedural rules and established judicial practice
Use of water and land resources in green projects	Article 49 of the Constitution; the provisions of the Water Code of the Republic of Uzbekistan concerning special water use, protection of water bodies and water abstraction; and the provisions of the Land Code concerning land use and land protection	Changes in irrigation, drainage, water abstraction and land-use arrangements	Limited mechanisms for the participation of the public and local communities in decision-making and judicial proceedings

The mechanism for the judicial protection of environmental rights may be represented as a continuous sequence of five interrelated procedural stages: identification, preparation, filing, adjudication, and remedy and enforcement (Figure 1). This model reflects the movement of an environmental dispute from the initial identification of a violation to the effective enforcement of the court's final decision.

At the identification stage, the claimant determines the nature of the alleged environmental violation, identifies the protected environmental right or legally recognised interest, and establishes the existence of actual or potential environmental harm. This preliminary assessment is necessary to define the subject matter of the dispute and the appropriate form of judicial protection.

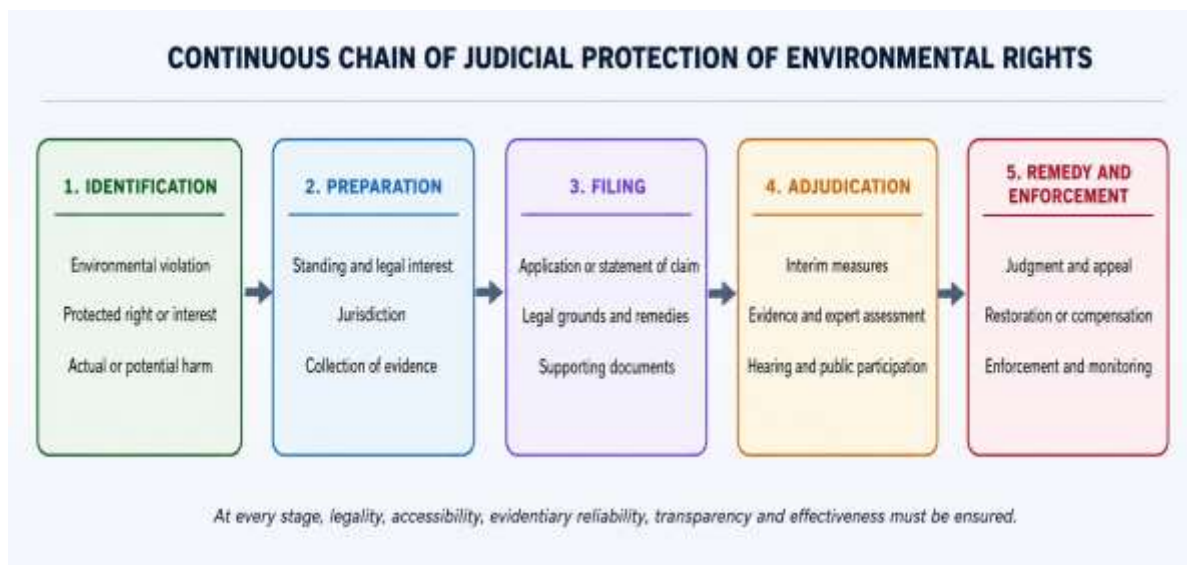
The preparation stage involves verifying the claimant's standing and legal interest, determining the competent court, and collecting relevant evidence. Such evidence may include environmental monitoring data, permits, administrative decisions, environmental impact assessment documents, expert opinions, photographs, laboratory results, public authority correspondence, and information obtained through environmental information requests.

At the filing stage, the claimant submits an application or statement of claim containing the factual circumstances of the dispute, the applicable legal grounds, the requested judicial remedies, and the supporting documents. Compliance with jurisdictional, formal, and procedural requirements is essential for the admissibility of the claim.

The adjudication stage includes the consideration of interim protective measures, the examination and evaluation of evidence, the appointment or assessment of environmental expertise, and the participation of the parties and interested members of the public in judicial proceedings. Where there is a risk of serious or irreversible environmental damage, interim measures may be required to suspend the contested activity until the dispute is resolved.

The final stage encompasses the adoption of the judgment, its possible review through appeal procedures, the restoration of the violated environmental right, compensation for environmental damage, and the enforcement and subsequent monitoring of the court's decision. The effectiveness of judicial protection depends not only on access to the court but also on whether the judgment results in the actual cessation of unlawful conduct, remediation of environmental damage, and prevention of repeated violations.

Accordingly, all five stages must operate as an interconnected chain in which legality, accessibility, evidentiary reliability, transparency, public participation, and effectiveness are continuously ensured.

Figure 1. Continuous Chain of Judicial Protection of Environmental**Rights**

Source: Developed by the author on the basis of the Constitution and the environmental and procedural legislation of the Republic of Uzbekistan, as well as Articles 4, 6 and 9 of the Aarhus Convention.

DISCUSSION

Assessment of the identified problems in the light of international practice leads to several conclusions. Directive 2004/35/EC bases the prevention and remedying of environmental damage on the polluter-pays principle and requires competent authorities to apply clear criteria when determining remedial measures [16]. Although the principle is generally recognized in Uzbek law, a unified cross-sectoral methodology for its implementation has not yet been established. A national methodology for assessing environmental damage, including damage to ecosystem services, should therefore be developed and approved through binding legislation.

The third pillar of the Aarhus Convention—access to justice—requires broad opportunities for individuals and public associations to challenge environmental decisions [15]. Following Uzbekistan's accession [7], the Code on Administrative Court Proceedings [12] should be supplemented with special provisions expressly authorizing public associations to bring claims in defence of environmental interests. Such provisions should also address reasonable time limits for adjudication and appropriate exemptions or reductions in court fees.

To strengthen judicial evaluation of environmental evidence, consideration should be given to judicial specialization in environmental law or to the creation of specialized panels for environmental disputes within the administrative courts. Procedural legislation should

also state more clearly that courts may order an independent forensic environmental examination whenever the reliability, completeness, or methodology of an existing opinion is disputed.

The Unified Environmental Online Platform, planned for implementation within the National Committee on Ecology and Climate Change established by Presidential Resolution No. PQ-343 of 18 November 2025 [17], may provide the technical foundation for integrating data on environmental control, assessment, and judicial proceedings. Such integration could facilitate verification of the provenance and integrity of evidence while enabling regular monitoring of the effectiveness of judicial protection through reliable court statistics.

At the same time, policy support for the green economy cannot justify relaxation of environmental safeguards. On the contrary, State support for green projects increases the need for meaningful judicial review of their environmental justification. Without such scrutiny, environmentally harmful projects may be implemented under a green label, creating a risk of greenwashing.

CONCLUSION

The study demonstrates that the transition to a green economy is strengthening the constitutional importance of environmental rights in the Republic of Uzbekistan while simultaneously generating new disputes involving renewable energy, waste treatment, and green investment projects. Laws Nos. ZRU-1036 and ZRU-1045, enacted in 2025, created an important normative foundation for judicial protection. Nevertheless, procedural issues—including public-interest standing, a unified methodology for environmental damage assessment, and the evidentiary status of environmental assessment and expert opinions—remain insufficiently developed.

To address these shortcomings, the Code on Administrative Court Proceedings should include special rules for environmental disputes; a unified methodology for assessing environmental damage should be adopted; judicial specialization should be strengthened; and environmental information systems should be integrated with judicial practice. Further research should examine in greater depth the methodology of environmental damage valuation and the design of collective and public-interest actions in environmental cases.

REFERENCES

1. President of the Republic of Uzbekistan. (2019, October 30). *Decree No. PF-5863 on approval of the Concept of Environmental Protection of the Republic of Uzbekistan until 2030*. LexUZ. <https://lex.uz/en/docs/6971721>

2. President of the Republic of Uzbekistan. (2022, December 2). *Resolution No. PQ-436 on measures to improve the effectiveness of reforms aimed at the transition of the Republic of Uzbekistan to a green economy until 2030*. LexUZ. <https://lex.uz/docs/6303230>
3. President of the Republic of Uzbekistan. (2023, September 11). *Decree No. PF-158 on the Uzbekistan–2030 Strategy*. LexUZ. <https://lex.uz/docs/6600413>
4. Republic of Uzbekistan. (2023). *Constitution of the Republic of Uzbekistan* (Art. 49). Constitutional Commission of the Republic of Uzbekistan. <https://constitution.uz/en/clause/index>
5. Republic of Uzbekistan. (2023). *Constitution of the Republic of Uzbekistan* (Art. 50). Constitutional Commission of the Republic of Uzbekistan. <https://constitution.uz/en/clause/index>
6. Republic of Uzbekistan. (2023). *Constitution of the Republic of Uzbekistan* (Art. 55). Constitutional Commission of the Republic of Uzbekistan. <https://constitution.uz/en/clause/index>
7. Republic of Uzbekistan. (2025, March 11). *Law No. ZRU-1045 on the accession of the Republic of Uzbekistan to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus, June 25, 1998)*. LexUZ. <https://lex.uz/en/docs/7426235>
8. Republic of Uzbekistan. (2025, February 24). *Law No. ZRU-1036 on environmental expertise, environmental impact assessment and strategic environmental assessment*. LexUZ. <https://lex.uz/docs/7397280>
9. Ministry of Ecology, Environmental Protection and Climate Change of the Republic of Uzbekistan. (2025). *Report data for 2024*. Yangi O'zbekiston. <https://yuz.uz>
10. Republic of Uzbekistan. (2013, December 27). *Law No. ZRU-363 on environmental control*. LexUZ. <https://lex.uz/docs/2304953>
11. Republic of Uzbekistan. (2018, April 12). *Law No. ZRU-474 on public oversight*. LexUZ. <https://lex.uz/docs/3679092>
12. Republic of Uzbekistan. (2018, January 25). *Code of the Republic of Uzbekistan on Administrative Court Proceedings* (Law No. ZRU-462). LexUZ. <https://lex.uz/docs/3527382>
13. Republic of Uzbekistan. (1995, December 21). *Civil Code of the Republic of Uzbekistan: Part One*. LexUZ. <https://lex.uz/docs/111189>
14. Republic of Uzbekistan. (1994, September 22). *Code of the Republic of Uzbekistan on Administrative Responsibility*. LexUZ. <https://lex.uz/docs/97664>
15. United Nations Economic Commission for Europe. (1998, June 25). *Convention on Access to Information, Public Participation in Decision-making and Access*

to *Justice in Environmental Matters (Aarhus Convention)*.

<https://unece.org/environment-policy/public-participation/aarhus-convention/text>

16. European Parliament & Council of the European Union. (2004, April 21). *Directive 2004/35/EC on environmental liability with regard to the prevention and remedying of environmental damage*. EUR-Lex. <https://eur-lex.europa.eu/eli/dir/2004/35/oj>

17. President of the Republic of Uzbekistan. (2025, November 18). *Resolution No. PQ-343 on measures to organize the activities of the National Committee of the Republic of Uzbekistan on Ecology and Climate Change*. LexUZ. <https://lex.uz/docs/7847341>

18. Constitutional Commission of the Republic of Uzbekistan. (n.d.). *Constitutional and legal foundations of environmental relations: National and foreign experience*. https://constitution.uz/oz/pages/Ekologik_munosabatlar

19. *Draft law on Uzbekistan's accession to the Aarhus Convention adopted*. (2025). Buxoro Regional Department of Ecology, Environmental Protection and Climate Change. <https://buxoroeco.uz>

20. President of the Republic of Uzbekistan. (2023, November 23). *Decree No. PF-199 on measures to further increase the level of greenery and ensure environmental sustainability through the consistent implementation of the nationwide Yashil Makon project*. LexUZ. <https://lex.uz/docs/6673808>