

LEGAL TRANSPLANTS OF TPF IN UZBEKISTAN: FURTHER PROSPECTS FOR DEVELOPMENT

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Introduction

The realm of international arbitration has witnessed a transformative surge in the utilization of Third-Party Funding (TPF). This innovative practice empowers parties to international disputes by securing financial backing from a third party, typically a specialized funder, to cover the often-substantial costs associated with arbitration. While TPF has become a well-established tool in common law jurisdictions, its adoption in civil law systems presents a fascinating and complex case study in legal transplants.

Uzbekistan's interest in TPF adoption reflects a broader trend among civil law jurisdictions seeking to enhance access to justice and promote the development of international arbitration. However, transplanting the common law model of TPF necessitates a critical analysis of its compatibility with Uzbekistan's existing legal framework and cultural attitudes towards litigation funding. Here, potential challenges like incompatibility with procedural rules or ethical concerns surrounding "win-at-all-costs" mentalities need careful consideration.

Goals and Objectives

Analyzing Uzbekistan's current legal framework and its compatibility with TPF adoption.

Identify challenges and opportunities associated with transplanting the common law TPF model.

Explore solutions and best practices for adapting TPF to Uzbekistan's context.

Evaluate the potential impact of TPF on access to justice and international arbitration development.

Problems and solutions

While TPF offers exciting prospects for Uzbekistan, several hurdles need to be addressed:

Uzbekistan's civil (and economical) law procedures might not easily accommodate common law TPF practices like mandatory TPF disclosure or potential funding approval processes. Integrating these elements into existing procedures without hindering efficiency will require careful adjustments, potentially even legislative reforms.

Uzbekistan's legal culture might hold a more conservative view towards litigation funding compared to common law systems. Concerns about the commercialization of justice and potential

ethical lapses surrounding "win-at-all-costs" mentalities need to be addressed. Educational initiatives and clear regulations promoting transparency can play a crucial role in fostering trust and acceptance of TPF.

Unlike common law jurisdictions, Uzbekistan lacks a well-developed TPF market with experienced providers. This creates uncertainty for both parties seeking funding and potential funders considering entry into the market. Establishing a clear regulatory framework for TPF activities will be essential to attract experienced TPF providers and foster a responsible ecosystem.

The introduction of TPF providers might lead to competition for cases, potentially driving up funding costs. This could negate the intended benefit of TPF for resource-constrained parties. Regulatory measures or industry best practices might be necessary to mitigate excessive cost inflation.

The close relationship between funders and parties raises concerns about potential conflicts of interest. Clear regulations mandating disclosure of funding arrangements and promoting ethical conduct are essential to ensure transparency and prevent funders from exerting undue pressure on parties to pursue specific litigation strategies.

Further Prospects for Development

This section explores how Uzbekistan can unlock TPF's potential:

First, Legislative Reforms. Analyzing successful TPF models and adapting them to Uzbekistan's legal context.

Second, Capacity Building. Educational initiatives for legal professionals and fostering collaboration with established TPF providers.

Third, Global Integration. Collaboration with international arbitration institutions to promote Uzbekistan as a TPF-friendly jurisdiction.

Conclusion

The potential adoption of Third-Party Funding (TPF) in Uzbekistan presents a compelling opportunity for increased access to justice and a more competitive international arbitration landscape. However, this exciting prospect necessitates a calculated leap. Friction points between existing legal frameworks and TPF practices, along with cultural concerns and the absence of a TPF market, demand careful consideration.

By analyzing successful TPF models, fostering collaboration with international stakeholders, and developing clear regulations, Uzbekistan can navigate these challenges. Educational initiatives and capacity building can further empower Uzbekistani legal professionals. Ultimately, a well-designed TPF ecosystem can unlock its potential, empowering Uzbekistani

parties, promoting international arbitration, and positioning Uzbekistan as a key player in the global stage.

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