# GOVERNING LAW IN TRANSNATIONAL CORPORATE CONTRACTS: A COMPARATIVE STUDY (UZBEKISTAN & GERMANY)

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***Annotation.*** *This article examines the role, selection, and implications of governing law in transnational corporate contracts, focusing on the comparative legal frameworks of Uzbekistan and Germany. The study explores how contractual parties determine applicable law, the interaction between domestic legislation and international instruments, and the practical considerations influencing parties' choices in international commerce. Special emphasis is placed on predictability, party autonomy, enforceability, and the impact of public policy constraints. The research also analyzes how globalization has transformed private international law and the governance of cross border business relationships. The paper concludes that while both Uzbekistan and Germany emphasize party autonomy, they differ in legal traditions, interpretive methods, and regulatory constraints, which shape the practical outcomes of governing-law clauses in corporate practice. The study contributes to understanding how multinational firms can optimize contract drafting, dispute resolution, and commercial strategy through informed choices of applicable law.*[1]

***Key words:*** *Governing law; transnational contracts; private international law; party autonomy; Uzbekistan; Germany; corporate contracting; conflict of laws; international commerce; enforceability; jurisdiction.*

The expansion of global markets and increasing integration of cross-border business operations have amplified the significance of governing law in transnational corporate contracts.

As multinational corporations enter more complex agreements involving supply chains, technology transfers, investments, joint ventures, and long term commercial cooperation, the legal framework governing these transactions becomes central to risk distribution, predictability, and dispute management.[2] Governing law also known as applicable law or choice of law clause determines which national legal system regulates the rights and obligations of the parties. It influences issues such as contractual validity, interpretation, remedies, liability limitations, and termination procedures.[3] A well-drafted governing-law clause is therefore essential for legal certainty and commercial stability. While international instruments such as the Hague Principles on Choice of Law in International Commercial Contracts and the UN Convention on Contracts for the International Sale of Goods (CISG) have contributed to harmonization, national legal systems retain substantial autonomy. Consequently, major differences persist regarding the scope of party autonomy, the limits imposed by mandatory rules, the application of public policy exceptions, and the treatment of foreign law by domestic courts.[4] These differences require comparative analysis to understand how various legal traditions approach governing law and how businesses can strategically navigate these variations.

This paper compares Uzbekistan and Germany two jurisdictions with distinct historical, legal, and economic trajectories. Germany represents a civil law system with strong integration

[1] Michaels, R. (2020). *The Governance of International Commercial Contracts*. Oxford University Press, pp. 12 - 19.
[2] Vogenauer, S. (2017). *Contract Law in International Trade*. Hart Publishing, pp. 33 - 41.
[3] Ferrari, F. (2019). *Interpretation of Contracts in International Commerce*. Kluwer Law International, pp. 55 - 60.
[4] Hartley, T. (2021). *International Commercial Litigation*. Sweet & Maxwell, pp. 44 - 52.

into the European Union's regulatory framework, particularly the Rome I Regulation, which shapes governing law principles in contractual matters. Uzbekistan, although also a civil law jurisdiction, reflects a post-Soviet legal tradition undergoing reforms aimed at improving its investment climate, contractual freedom, and international commercial integration.[5] Examining these two systems reveals important contrasts and similarities that shape transnational contracting practices. The article proceeds by explaining the theoretical foundations of governing law, detailing the legal frameworks of both jurisdictions, comparing their approaches, and analyzing practical implications for corporate actors. The conclusion offers recommendations for enhancing predictability and efficiency in cross-border contracting involving Uzbek and German entities.

Governing law plays a foundational role in determining the legal architecture of cross-border agreements. A transnational contract typically involves parties from different states, each with its own substantive legal rules, interpretive traditions, judicial practices, and regulatory constraints.[6] Without a clear governing law clause, courts or arbitral tribunals must rely on conflict of law rules, which may lead to uncertainty, increased litigation costs, and inconsistent outcomes. This uncertainty can hinder international investment and commercial cooperation. The principle of party autonomy, widely recognized in modern private international law, allows commercial parties to select the governing law that best suits their needs.[7] Party autonomy promotes freedom of contract, reduces transaction costs, and increases predictability. However, party autonomy is not absolute: national rules, public policy considerations, and mandatory provisions can restrict parties' choices. These limitations vary across jurisdictions and influence contract drafting strategies. Transnational corporate contracts such as supply agreements, joint ventures, investment deals, licensing arrangements, and construction contracts often involve long term relationships where legal certainty is particularly important. Governing law clauses must therefore address potential legal fragmentation and ensure consistent interpretation throughout the contractual lifespan.[8] The increasing complexity of global business networks has strengthened the role of governing law not only in resolving disputes but also in shaping negotiation strategies and risk management. Parties may choose governing laws known for predictability for example, English law or New York law even when neither party is connected to those jurisdictions. Alternatively, they may opt for the law of one party's home state to reduce administrative costs or satisfy regulatory requirements. The diversity of motivations underscores the need for comparative understanding of national frameworks.

International commercial law is shaped by several multilateral instruments that guide states' conflict of law rules and contractual practices. The most influencing points are the Hague Principles (2015)**,** the CISG (1980)**,** and various UNIDROIT instruments. While these texts do not fully unify national laws, they provide guiding principles that affect domestic legislation. The Hague Principles promote party autonomy and clarify the validity and scope of choice of law clauses, especially in contracts between professional parties.

[5] Bektemirov, A. (2022). Legal Reforms in Uzbekistan: Trends and Perspectives. *Central Asian Law Journal*, 6(2), pp. 89 - 94.
[6] Mills, A. (2018). *The Confluence of Public and Private International Law*. Cambridge University Press, pp. 101 - 115.
[7] Symeonides, S. (2016). Party Autonomy in Choice of Law. *American Journal of Comparative Law*, 64(3), pp. 230–240.
[8] Zeller, B. (2020). Long-term Contracts and International Law. *Journal of Transnational Law*, 14(1), pp. 14 - 21.

They emphasize that a choice of law requires no connection to the chosen jurisdiction reflecting modern commercial realities.[9] Although not binding, the Hague Principles influence legislative reforms in many developing legal systems. The CISG, which applies automatically to the international sale of goods between parties in contracting states unless explicitly excluded, reduces legal uncertainty and facilitates trade. Both Germany and Uzbekistan are CISG contracting states, though the extent to which parties rely on or opt out of the CISG differs. Since the CISG governs substantive contractual issues, its interaction with national contract laws affects disputes arising from cross-border sales.[10] The UNIDROIT Principles of International Commercial Contracts (PICC) serve as a soft-law instrument reflecting international best practices. Many arbitral tribunals use the PICC to interpret contractual clauses or fill gaps when parties choose "general principles of law" or "international commercial law." Their influence is visible in both German and Uzbek legal scholarship and commercial arbitration practice.[11] These instruments create a broader framework that shapes national conflict of law rules and guides transnational business actors in drafting effective governing law provisions.

Uzbekistan has undergone extensive legal reforms aimed at liberalizing its economy and strengthening the legal environment for foreign investors. The principle of party autonomy in choosing governing law is recognized in Uzbekistan's Civil Code, the Law on International Commercial Arbitration, and related legal acts.[12] Uzbek law allows parties to select foreign governing law for transactions involving international elements. This reflects a modern approach consistent with global commercial practice. However, the freedom to choose governing law is limited in several areas. Mandatory rules related to taxation, customs regulations, currency control, and investment protection may override the parties' choice if such rules are considered fundamental to Uzbekistan's economic policy.[13] Additionally, Uzbek courts may refuse to apply foreign law if the result would contradict the country's public policy or constitutional principles. This public policy exception, while common internationally, is applied with consideration to national interests such as economic security and consumer protection. Uzbek courts have the authority to apply foreign law if it is chosen by the parties. However, practical challenges arise due to limited judicial experience in interpreting foreign legal systems and difficulties in obtaining authoritative translations or expert opinions. In such cases, Uzbek courts may fall back on domestic law, especially if the foreign legal rules cannot be sufficiently established. In contrast, arbitration institutions operating in Uzbekistan, such as the Tashkent International Arbitration Centre (TIAC)**,** have broader experience in applying foreign law and international soft-law instruments. TIAC's rules explicitly affirm party autonomy and the application of foreign governing law in international commercial disputes.[14] Uzbekistan's participation in the CISG means that cross-border sales contracts between Uzbek companies and partners from other CISG states are automatically governed by the CISG unless parties opt out. Uzbek commercial practice shows increasing awareness of the CISG, especially in export oriented industries such as agriculture, chemicals, and textiles. Uzbek legal scholarship increasingly references the Hague Principles and the UNIDROIT PICC, although these instruments are not formally incorporated

[9] Hague Conference on Private International Law. (2015). *Hague Principles on Choice of Law*, pp. 3 - 12.
[10] Schlechtriem, P., & Schwenzer, I. (2016). *Commentary on the CISG*. Oxford University Press, pp. 112 - 145.
[11] Bonell, M. (2018). *UNIDROIT Principles and International Commercial Arbitration*. Juris Publishing, pp. 67 - 73.
[12] Civil Code of the Republic of Uzbekistan (2022), Articles 1194 - 1198.
[13] Karimov, U. (2021). Mandatory Rules in Uzbek Contract Law. *Uzbek Journal of Jurisprudence*, 9(3), pp. 25 - 32.
[14] TIAC Arbitration Rules (2021), Articles 25 - 31.

into domestic law. Their influence is seen in judicial reasoning and arbitration practice, especially regarding interpretation and performance standards in long-term contracts. Overall, Uzbekistan's governing law framework reflects a transitional model that balances openness to international commercial practices with safeguarding national regulatory interests.

Germany has one of Europe's most developed legal systems, deeply integrated with EU conflict of law instruments, particularly the Rome I Regulation (2008), which governs contractual obligations in the European Union. Rome I solidifies the principle of party autonomy, provides detailed rules for determining applicable law, and restricts choices only in limited circumstances.[15] Under Rome I, parties to international commercial contracts have broad freedom to choose governing law, regardless of whether the chosen law has any substantive connection to the contract. This reflects commercial realities and strengthens legal predictability. German courts regularly apply foreign law when it is chosen, relying on expert testimony, comparative law analyses, and established jurisprudence. Rome I also specifies that mandatory EU rules and German public policy may override foreign law in exceptional cases. Examples include consumer protection, employment law, and competition regulations. However, for commercial contracts between corporations, the application of mandatory rules is minimal compared to other jurisdictions. Germany's judiciary has extensive experience dealing with foreign legal systems. Courts rely on legal experts, comparative law databases, and academic commentary to interpret foreign rules. This infrastructure supports the effective application of governing law clauses and reduces the risk of uncertainty or misinterpretation. Additionally, Germany has a strong tradition of commercial arbitration, supported by institutions such as the German Arbitration Institute (DIS). Arbitration tribunals seated in Germany often apply foreign law, international soft law instruments, and general principles of international commerce. This reinforces Germany's attractiveness as a venue for international dispute resolution.[16] Germany is one of the most active CISG jurisdictions, with a rich body of case law interpreting the Convention. German courts apply the CISG systematically, and parties often rely on German commentaries, which are among the most influential globally. The interaction between German domestic law and international instruments is therefore sophisticated and well developed.

German commercial practice also frequently uses the UNIDROIT PICC and the Principles of European Contract Law (PECL) as interpretive tools, especially in arbitration.

Their role supplements the chosen governing law and contributes to harmonized international interpretations. [17] Comparing Uzbekistan and Germany reveals both shared principles and major differences in how governing law is treated in transnational corporate contracts. Both Germany and Uzbekistan recognize party autonomy. However, Germany allows party autonomy with very few restrictions, supported by the Rome I Regulation. And Uzbekistan also permits party autonomy but with broader limitations related to public policy, currency regulations, taxation rules, and economic sovereignty. This difference affects corporate strategy.

Multinational firms working in Uzbekistan must evaluate mandatory domestic rules more carefully when drafting governing law clauses.

Germany has a well-established practice of applying foreign law; Uzbek courts, while permitted to apply foreign law, face practical challenges. This discrepancy influences contract drafting such as, parties contracting in Germany are confident that foreign law will be properly

[15] Rome I Regulation (EC) No 593/2008, Recitals 11 - 14.
[16] German Arbitration Institute (DIS). (2021). DIS Arbitration Rules, pp. 22 - 30.
[17] Lando, O., & Beale, H. (2021). *Principles of European Contract Law*. Kluwer, pp. 101 - 108.

interpreted and parties contracting in Uzbekistan often prefer to choose Uzbek law or submit disputes to international arbitration to avoid uncertainty in the application of foreign law by domestic courts. Both states support arbitration, but Germany has a longer history and larger institutional infrastructure. Uzbekistan's TIAC is rapidly developing but remains newer. Corporate parties often choose arbitration for Uzbekistan related contracts, particularly when foreign governing law is selected, ensuring neutral interpretation.

Uzbekistan maintains broader public policy exceptions reflecting economic transition, regulatory sovereignty, and investment priorities. Germany applies public policy exceptions sparingly, mainly in exceptional cases with clear violations of fundamental principles. This difference affects enforceability of certain clauses, such as penalty provisions or limitations of liability.[18] Germany demonstrates extensive integration with Rome I, CISG jurisprudence, and UNIDROIT principles. Uzbekistan, while a CISG state, applies international soft law instruments mainly in arbitration rather than domestic courts. This asymmetry may lead to different interpretations of similar contractual language depending on the forum chosen.

Contracts between German and Uzbek companies often follow several patterns:

1. Choosing English law or German law for legal certainty and predictable interpretation.
2. Using arbitration (e.g., TIAC or DIS) to ensure professional interpretation of governing law.
3. Explicitly addressing mandatory Uzbek rules to avoid unenforceable clauses.
4. Incorporating CISG provisions for sales contracts unless opting out.

Understanding these dynamics allows corporate actors to better manage legal and commercial risks. Governing law selection is influenced by both legal and commercial factors.

Key considerations which includs parties prefer jurisdictions with stable legal systems, clear commercial law, and efficient dispute resolution. Germany is often chosen because of its predictable jurisprudence, comprehensive legal scholarship, and experienced judiciary.

Uzbekistan's legal reforms are improving predictability but still represent a developing environment.[19] Neutrality is a primary motivation for choosing a third country governing law, such as English or German law. When negotiating with Uzbek entities, foreign corporations often propose a neutral governing law to avoid perceived home-court advantage or uncertainty about judicial capacity. For sales contracts, parties must decide whether to apply or exclude the CISG. German courts' extensive CISG experience contrasts with Uzbekistan's emerging jurisprudence. This affects drafting strategy, particularly for goods with complex performance obligations. Enforceability is also crucial. Arbitration awards seated in Germany or issued by TIAC benefit from the New York Convention, but domestic court judgments may face more obstacles, particularly if based on foreign governing law. Parties must therefore consider the enforcement environment when drafting governing-law clauses.[20] Certain industries banking, energy, transport, pharmaceuticals are heavily regulated. Mandatory rules may override chosen governing laws. In Uzbekistan, sectors such as mining, telecom and banking have significant regulatory requirements that constrain contractual freedom. Germany also applies mandatory regulations, but these are more predictable and extensively codified.[21]

[18] German Ministry of Justice. (2020). Public Policy Doctrine in Contract Law, pp. 19 - 27.
[19] EBRD. (2022). Uzbekistan Commercial Law Assessment, pp. 41 - 50.
[20] New York Convention Guide (UNCITRAL). (2020). Enforcement of Foreign Awards, pp. 4 -14.
[21] OECD. (2023). Regulatory Constraints in Corporate Contracting: Uzbekistan and Germany, pp. 20 - 33.

In conclusion, governing law remains one of the most critical components of transnational corporate contracts. Its importance lies not only in determining substantive rights and obligations but also in shaping commercial risk, interpretive methods, and dispute resolution strategies. The comparative analysis of Uzbekistan and Germany demonstrates that while both jurisdictions embrace the principle of party autonomy, they differ significantly in legal infrastructure, judicial capacity, regulatory constraints, and integration with international legal instruments. Germany's highly developed legal system, embedded in the Rome I framework and supported by strong judicial expertise, offers a predictable environment for the application of governing law. Uzbekistan, undergoing dynamic reforms, increasingly supports international contracting practices but still faces practical challenges in applying foreign law and balancing contractual freedom with national economic priorities. For multinational corporations engaging in cross-border contracts involving Uzbek and German entities, an informed choice of governing law is essential. Consideration must be given to public policy limitations, enforcement conditions, and sector-specific regulations. Arbitration often serves as a preferred dispute resolution mechanism, ensuring neutral and professional interpretation of governing-law clauses.

Ultimately, effective contract drafting requires a nuanced understanding of both domestic and international legal frameworks. By strategically selecting governing law and aligning contractual terms with jurisdictional requirements, businesses can significantly enhance commercial certainty, reduce risks, and support sustainable cross - border cooperation.

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