ENTERPRISE UZBEKISTAN AND THE TRANSPLANTATION OF ENGLISH CONTRACT LAW: A NEW FRONTIER FOR COMMON LAW IN CENTRAL ASIA

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Abstract (English)

In May 2026, the President of Uzbekistan signed Presidential Decree No. UP-233, formally establishing the International Centre for Digital Technologies 'Enterprise Uzbekistan' as a distinct jurisdiction operating under the norms and principles of the common law of England and Wales. This article examines that development through the lens of English contract law. It considers what transplanting English contract law into a civil law State actually means in doctrinal terms, analyses the tensions that arise between the English common law tradition — with its emphasis on freedom of contract, certainty, and good faith —and the codified obligations framework of the Uzbek Civil Code, and draws on the comparative experience of analogous special economic zones in the Gulf, particularly the Dubai International Financial Centre (DIFC) and the Abu Dhabi Global Market (ADGM).

Keywords: legal transplant; Enterprise Uzbekistan; English contract law; freedom of contract; good faith; DIFC; ADGM; special economic zone; civil law; common law.

«Enterprise Uzbekistan» va ingliz shartnoma huquqining transplantatsiyasi: Markaziy Osiyoda umumiy huquq uchun yangi chegara

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Annotatsiya (O‘zbek tilida)

2025-yil noyabr oyida O‘zbekiston Prezidenti "Enterprise Uzbekistan" xalqaro raqamli texnologiyalar markazini Angliya va Uels umumiy huquqi normalari va tamoyillari asosida faoliyat yurituvchi alohida yurisdiksiya sifatida rasman ta’sis etish to‘g‘risida PF-233-sonli Prezident farmonini imzoladi. Ushbu maqolada ushbu rivojlanish Angliya shartnoma huquqi nuqtai nazaridan ko‘rib chiqiladi. Unda ingliz shartnoma huquqini fuqarolik huquqi davlatiga o‘tkazish aslida doktrinal nuqtai nazardan nimani anglatishi ko‘rib chiqiladi, shartnoma erkinligi, aniqlik va halollikka urg‘u beruvchi ingliz umumiy huquq an’anasi va O‘zbekiston Fuqarolik kodeksining kodekslashtirilgan majburiyatlar tizimi o‘rtasida yuzaga keladigan ziddiyatlar tahlil qilinadi, shuningdek, Ko‘rfazdagi shunga o‘xshash maxsus iqtisodiy zonalar, xususan, Dubay xalqaro moliya markazi (DIFC) va Abu-Dabi global bozori (ADGM) o‘rtasidagi qiyosiy tajriba o‘rganiladi.

Kalit so'zlar: huquqiy transplantatsiya; Enterprise Uzbekistan; ingliz shartnoma huquqi; shartnoma erkinligi; vijdoniylik; DIFC; ADGM; maxsus iqtisodiy zona; fuqarolik huquqi; umumiy huquq.

"Enterprise Uzbekistan" и трансплантация английского договорного права:

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Аннотация (Русский)

В ноябре 2025 года Президент Республики Узбекистан подписал Указ Президента № УП-233, официально учредив Международный центр

цифровых технологий «Enterprise Uzbekistan» в качестве отдельной юрисдикции, функционирующей на основе норм и принципов общего права Англии и Уэльса. Настоящая статья рассматривает данное нововведение сквозь призму английского договорного права. Анализируется, что означает трансплантация английского договорного права в государство с кодифицированной правовой системой в доктринальном отношении; исследуются противоречия между традицией английского общего права — с его акцентом на свободе договора, правовой определённости и принципе добросовестности — и кодифицированной системой обязательственного права Гражданского кодекса Республики Узбекистан. Для сравнительного анализа привлекается опыт аналогичных особых экономических зон в регионе Персидского залива — прежде всего Дубайского международного финансового центра (DIFC) и Абу-Дабийского глобального рынка (ADGM).

Ключевые слова: правовая трансплантация; Enterprise Uzbekistan; английское договорное право; свобода договора; добросовестность; DIFC; ADGM; особая экономическая зона; гражданское право; общее право.

I. Introduction

On 26 November 2025, President Shavkat Mirziyoyev of Uzbekistan signed Presidential Decree No. UP-233 'On the Organisation of the Activities of the International Centre for Digital Technologies'.[1] The Decree formally constituted Enterprise Uzbekistan, a center created by a preliminary decree in February 2024[2] and located within the IT Park district in Tashkent, as a separate territory (jurisdiction) with a special legal procedure based on the norms and principles of the common law of England and Wales or the standards of leading international financial centers.[1, art. 2] Within that territory, resident information technology companies are permitted to conduct a wide range of digital activities — from software development and artificial intelligence to business process outsourcing and cloud computing[12] — under a regulatory framework modelled not on Uzbek civil law but on the centuries-old jurisprudence of the English courts.

The official rationale is explicit: English law 'is the most common basis for international transactions' and 'investors trust it more than the national legal systems of developing countries'.[1, preamble] The ambition extends further still. At the forum on artificial intelligence that accompanied the decree's launch, the President indicated that the Enterprise Uzbekistan model — and specifically its application of English law — is 'planned to be gradually extended across the entire republic in the future'.[12] If realised, that aspiration would represent one of the most dramatic legal reforms in the post-Soviet space.

II. Legal Transplants: Theory and Precedent

A. The Watson Thesis

The concept of the 'legal transplant' — the migration of rules, institutions, or entire legal traditions from one jurisdiction to another — was most influentially articulated by the Scottish comparative lawyer Alan Watson. His central argument, developed in *Legal Transplants: An Approach to Comparative Law* (first published in 1974), is that legal rules are far more commonly borrowed from foreign systems than they are organically generated by the societies they govern.[10] Watson's thesis challenged the then-prevailing Savignian view that law is the organic expression of a people's spirit (*Volksgeist*). In his account, law is a largely autonomous enterprise, and transplantation is its primary engine of development.

Watson's critics have pointed out that the ease of formal transplantation tells us little about functional success. A rule may be textually adopted but substantively ignored, misapplied, or quietly transformed by host-jurisdiction courts applying alien underlying assumptions. The experience of post-Soviet republics adopting civil codes modelled on continental European templates in the 1990s — often under pressure from international financial institutions — provides ample illustration of this gap between formal transplant and functional integration.

The question raised by Enterprise Uzbekistan is whether English contract law, when introduced into a designated enclave rather than a whole national system, is more or less susceptible to these pathologies. The answer is not self-evident, and it turns in large part on the institutional design that accompanies the transplant.

B. Enclave Transplants in the Gulf: DIFC and ADGM

The most instructive precedents are the Dubai International Financial Centre and the Abu Dhabi Global Market. The DIFC, established in 2004 within a special constitutional framework in the UAE, operates its own legal system based on English common law, with bespoke DIFC statutes and an independent court.[9] English court judgments are persuasive rather than binding, and the DIFC has developed its own body of commercial case law over two decades. The ADGM, established in 2015, went further: it directly adopted approximately fifty English statutes as its operative law, making its alignment with UK legal standards exceptionally close.[7] Judges with common law experience staff the ADGM courts and may rely on English precedents as persuasive authority.

Academic analysis of the ADGM experiment has observed that its relative success — compared with earlier attempts at instant transplantation — is 'largely because the introduction of English law was accompanied by the establishment of a court composed of judges with vast experience in the application of statutory and common law'.[7] A broader study of the legal autonomy of DIFC and ADGM courts confirms that their ability to provide legal certainty to international investors flows from their structural separation from the surrounding civil law system and their procedural independence from domestic political pressures.[9] Absent these features, the formal adoption of English law would be largely theatrical.

III. The Character of English Contract Law: What Is Being Transplanted?

A. Freedom of Contract and Certainty

English contract law rests on a distinctive set of foundational commitments. Foremost among these is freedom of contract: parties are generally free to allocate risks, exclude liability, and structure their commercial relationship as they see fit, subject to statutory controls (notably the Unfair Contract Terms Act 1977 and the Consumer Rights Act 2015) and a handful of overriding common law constraints. The English courts give primacy to the parties' expressed intentions. Where contractual language is clear, courts will apply it, even where the outcome appears harsh.

This orientation towards certainty and party autonomy is precisely what makes English law attractive to international commercial parties. Contracting under a system where the outcome of a dispute can be predicted with reasonable confidence — because a century of case law addresses analogous fact patterns — reduces transaction costs and facilitates lending, investment, and risk transfer. It is this quality that the preamble to Decree UP-233 implicitly invokes when it identifies English law as the benchmark for 'internationally acknowledged best practices and institutions on the protection of the rights of investors'.[1, preamble]

B. The Good Faith Problem

English contract law's most notable divergence from civil law traditions concerns good faith. In most civil law systems — including that of Uzbekistan — a general duty of good faith in the performance of contracts is codified and pervasive. The Uzbek Civil Code enshrines freedom of contract as a foundational principle.[4] while simultaneously operating within a broader tradition in which courts retain a greater latitude to police contractual fairness.

English law has historically taken a different approach. As one leading analysis observes, 'English law has no general principle or doctrine of good faith', though good faith has nevertheless become an increasingly visible feature of the English law of contract as the law has developed over the last few decades.[16] For

a long time, England stood out as one of the few jurisdictions that did not recognize an implied duty of good faith between contracting parties.[16] That position has been qualified in specific contractual relationships — insurance, employment, partnership — and some relational commercial contracts, but no general duty has yet been recognized.

Implied terms represent the principal mechanism by which English courts introduce obligations that the parties did not express. The legal test, as refined in *BP Refinery (Westernport) Pty Ltd v Shire of Hastings* [1978] and confirmed by the UK Supreme Court in *Marks and Spencer plc v BNP Paribas Securities Services Trust Co* [2015] UKSC 72, is demanding: a term will be implied only if it is reasonable and equitable, necessary to give business efficacy, obvious, capable of clear expression, and not inconsistent with any express term. Hugh Collins has argued that ideas of good faith and fair dealing are conceptually foundational to the implication of terms, though English courts have been reluctant to acknowledge this openly.[8] The doctrinal uncertainty that results — with implied good faith operating through the back door of implied terms — may be particularly difficult for foreign practitioners trained in civil law systems to navigate.

The practical consequence for Enterprise Uzbekistan is significant. IT companies that are accustomed to operating under Uzbek law, where good faith norms are embedded in the Civil Code structure,[4] will encounter a contracting environment where equivalent protections must be explicitly negotiated or demonstrated to fall within a recognized category. Failure to appreciate this distinction risks leaving parties exposed in ways their civil law training would not have anticipated.

C. Remedies and Damages

English contract law's remedial framework presents further points of divergence. The dominant remedy for breach is the award of expectation damages

— placing the innocent party in the position they would have occupied had the contract been performed. The famous rule in *Hadley v Baxendale (1854) 9 Exch 341* limits recoverable losses to those that were either in the reasonable contemplation of the parties at the time of contracting or that arose in the usual course of things. Consequential or purely economic losses that are foreseeable in the abstract but not specifically communicated to the contracting party at the time of formation will generally be excluded.

Specific performance, by contrast, is a discretionary equitable remedy, available in English law only where damages would be inadequate — most commonly in contracts for the sale of land or unique goods. Civil law systems more readily order specific performance as the primary remedy. For technology companies whose principal assets are intangible — software, data, intellectual property — the difference between English and civil law remedial frameworks may be practically significant, particularly in long-term service and licensing agreements.

IV. Enterprise Uzbekistan in Its Legal Context

A. The Existing Uzbek Framework

Uzbekistan's private law is governed principally by the two-part Civil Code, whose first part entered into force on 21 December 1995 and second part on 29 August 1996, both parts coming into operation on 1 March 1997.[4,5] The Code was drafted in the post-Soviet transition period and draws heavily on the 1994 Russian Civil Code model, which was itself influenced by the Dutch Civil Code. The result is a thoroughly codified system of private law with general provisions on formation, validity, performance, breach, and remedies — supplemented by specific rules on nominate contracts such as sale, lease, services, and construction.

The Uzbek Civil Code expressly guarantees freedom of contract: parties are free in establishing rights and obligations based on agreement and in the

determination of any terms of the contract which do not contradict legislation.[4] However, unlike English law, the Code also contains provisions allowing courts to modify or dissolve contracts on grounds of materially changed circumstances,[4] introducing a *rebus sic stantibus* doctrine alien to English contract law's orthodoxy that parties should bear the risks they have allocated. The interaction between this Uzbek default rule and the governing law of Enterprise Uzbekistan contracts is an issue that constitutional implementing legislation will need to resolve clearly.

Under the general private international law framework applicable outside the Centre, Uzbek legislation permits contracting parties to choose both the applicable law and the dispute resolution forum. In practice, this has long meant that sophisticated cross-border transactions involving Uzbek entities are governed by English law and subject to London arbitration. Arabjanov observed as early as 2014 that distrust of the national judicial system is the principal reason commercial activity is effectively offshored through English-law contracts.[6] Enterprise Uzbekistan may be understood as an attempt to bring that offshore legal activity onshore, to create, within Uzbekistan's physical borders. In this zone, the same trust that English law commands internationally is available domestically.

B. The Institutional Architecture of the Centre

Decree UP-233 establishes several features that are critical to the transplant's viability. First, the Centre is recognized as a distinct territory with its own special legal regime — a structural separation from the surrounding Uzbek law analogous to, though less formally entrenched than, the constitutional status of the DIFC. Second, the Decree provides for an independent specialized court — separate from Uzbekistan's judicial system — competent to resolve disputes between residents and, by mutual consent, with non-resident counterparties. Third, the Centre is to have a dedicated tax inspectorate and a one-stop-shop mechanism operating in English.[1] Fourth, the Directorate of the Centre is constituted as a joint-stock

company, with IT Park Uzbekistan as sole shareholder, and is subject to oversight by a Supervisory Board chaired by the President of the Republic.

These provisions collectively suggest a genuine awareness that legal transplantation requires institutional accompaniment. The critical question — which the Decree defers to subsequent constitutional legislation — is the composition, independence, and legal authority of the specialized court. A court staffed by judges experienced in English contract law and insulated from political pressure would significantly enhance the transplant's credibility. A court staffed by domestic judges applying English law as a foreign system, without the benefit of English legal training or access to a developed body of precedent, would likely produce results far removed from the English commercial courts' approach to similar disputes.

C. The Scope of Permitted Activities

Decree UP-233 specifies the activities that resident companies may conduct within the Centre: software development and IT consulting; business process outsourcing; scientific research and development in digital technologies; video game creation and digital content production; artificial intelligence development; data center and cloud computing services; and digital education. These are overwhelmingly services contracts and intellectual property transactions — areas where English contract law's treatment of implied terms about fitness for purpose, confidentiality, intellectual property ownership, and limitation of liability will be immediately relevant.[1]

The sector focus also raises questions that English contract law handles with varying degrees of clarity. Software development contracts are routinely litigated in the English courts, and a substantial body of Technology and Construction Court case law addresses issues of scope, specification, acceptance testing, and defect liability. However, artificial intelligence contracts — allocating risk for

algorithmic errors, training data contamination, or regulatory non-compliance — represent a frontier area where English case law is still developing. Enterprise Uzbekistan's residents will be operating at the leading edge of both technology and law.

V. Lessons from Comparative Experience

The DIFC and ADGM offer two models whose divergence is instructive. The DIFC adopted English common law principles but developed its own statutory superstructure, creating a bespoke legal system that draws on English law as a secondary source where its own legislation is silent. After twenty years, the DIFC has developed genuine legal authority through a corpus of decided cases. The ADGM adopted English statutes more directly — importing nearly fifty Acts of Parliament — and thereby achieved a closer alignment with English law in exchange for a lesser degree of institutional independence.

Both models succeeded because, critically, they established courts with experienced English law judges who could apply the transplanted law as it was intended to operate — not as a foreign system to be interpreted through civil law spectacles, but as an organic legal tradition whose meaning emerges through the accumulated reasoning of a common law judiciary.[7,9] The absence of a sufficiently experienced bench has been identified as the principal reason why earlier attempts to establish English-law enclaves — including some early CIS efforts — failed to achieve investor confidence.

A further lesson concerns the interface between the enclave and the surrounding legal system. The DIFC has developed sophisticated mechanisms for the recognition and enforcement of its judgments within the wider UAE, including a protocol with the Dubai courts. Enterprise Uzbekistan will need equivalent arrangements: if a judgment of the Centre's specialised court cannot be enforced against assets held in the general Uzbek jurisdiction, or if insolvency proceedings overlap confusingly between the two regimes, the commercial utility of the Centre will be substantially diminished.

The OECD's 2025 assessment of Uzbekistan's investment climate noted that the country has completely restructured its legal framework on investment in only five years, adopting new laws on investment, public-private partnerships, and special economic zones.[14] Enterprise Uzbekistan is the most ambitious of these reforms — the first to import not merely investment protections but an entire contract law tradition. Whether it can sustain the institutional commitments necessary to make that import functional will be the defining question of the next decade of Uzbek legal development.

VI. Conclusions

Enterprise Uzbekistan is a legally remarkable initiative. By formally designating a zone of Uzbek territory as subject to the common law of England and Wales, Decree UP-233 accomplishes — at least as a matter of stated intent — what decades of commercial practice could only achieve contractually and through arbitration: a domestic space governed by a legal system that international investors trust.

From the perspective of English contract law doctrine, the transplant carries both opportunities and risks. The opportunities are real: the English legal system's commitment to certainty, its sophisticated treatment of commercial contracts, and its rich body of technology sector case law provide a genuine asset for the IT companies that Enterprise Uzbekistan seeks to attract. The risks are equally real: the absence of a general good faith doctrine, the restrictive approach to specific performance, and the technical complexity of the implied terms doctrine may surprise counterparties trained in civil law traditions, and the interaction with the surrounding Uzbek legal system remains constitutionally unresolved.

The comparative experience of the DIFC and ADGM demonstrates that a legal transplant of this kind can work — but that its success depends less on the formal choice of governing law than on the quality and independence of the judicial institutions that apply it. The constitutional legislation that Decree UP-233 mandates the Cabinet of Ministers to prepare within three months represents the

critical next step. If it produces a court with experienced common law judges, clear jurisdiction, and effective enforcement powers, Enterprise Uzbekistan may become the DIFC of Central Asia. If it produces an underfunded domestic court applying English law as a foreign statute, the experiment will be a missed opportunity.

The stakes extend beyond Uzbekistan. President Mirziyoyev's stated intention to extend the Enterprise Uzbekistan model across the republic is a signal that the reform is conceived not as a technical enclave experiment but as a long-term strategy for legal modernisation. If it succeeds, it may offer a template for other Central Asian states wrestling with the same tension between civil law tradition, post-Soviet institutional inheritance, and the demands of international investment. English contract law, for the first time, finds itself at the center of that question.

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