

# PROSPECTS FOR THE DEVELOPMENT OF THE INSTITUTION OF THE MARITAL CONTRACT IN THE REPUBLIC OF UZBEKISTAN

Mamajonova Dilnoza Dilshod kizi

Master's Student, Faculty of Business Law Tashkent State

University of Law Tashkent, Republic of Uzbekistan

e-mail: d.mamajonova2208@gmail.com

## Abstract

The article examines the main directions for developing the institution of the marital contract in the Republic of Uzbekistan, taking into account current trends in family law and foreign experience. It reveals the concept and legal nature of the marital contract, analyses the specific features of its regulation under existing legislation, and explores the principal models of legal regulation in foreign legal systems. Specific proposals are formulated for improving the Family Code of the Republic of Uzbekistan in the part concerning the marital contract, including expanding the list of permissible terms, introducing electronic notarisation, and creating a unified register of marital contracts.

**Keywords:** Marital contract, family law, property relations of spouses, Family Code of the Republic of Uzbekistan, foreign experience, notarial certification, electronic register, improvement of legislation.

## Introduction

The modern development of family law is characterised by the strengthening of contractual principles in regulating the property relations of spouses. The institution of the marital contract, which has become widespread in most countries of the world, is also gradually taking shape in the legal system of the Republic of Uzbekistan. The adoption of the Family Code on 30 April 1998 laid down the normative basis of this institution; however, its practical application remains limited: according to estimates, the share of marital contracts concluded in the total number of registered marriages is about 1.2 % – substantially lower than the corresponding figures in foreign legal systems.



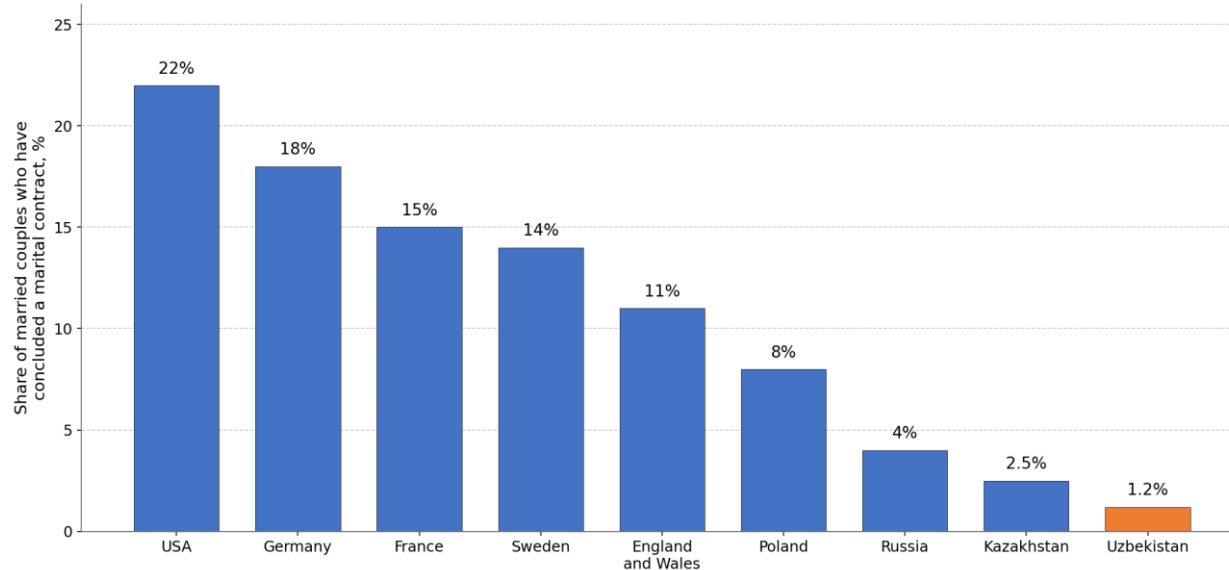


Figure 1 – Prevalence of the marital contract in foreign countries and in the Republic of Uzbekistan (estimated data)

A marital contract is an agreement between persons entering into marriage, or an agreement between spouses, defining their property rights and obligations during the marriage and (or) in the event of its dissolution. Pursuant to Article 29 of the Family Code of the Republic of Uzbekistan, such a contract is concluded in written form and is subject to mandatory notarial certification. By its legal nature, the marital contract is a mixed institution combining elements of civil and family law: it rests on the principle of autonomy of the will of the parties, which is characteristic of private law, and at the same time reflects the public-law component of regulating family relations.

An analysis of foreign experience makes it possible to distinguish four principal models of legal regulation of the marital contract: the continental model (France, Germany, Italy, Switzerland, Spain), the Anglo-American model (the United States, England and Wales, Canada, Australia), the Scandinavian model (Sweden, Norway, Denmark, Finland), and the post-Soviet model (Russia, Belarus, Kazakhstan, Ukraine, Uzbekistan). Each model is distinguished by a specific combination of contractual freedom and public-law restrictions: the continental model by the detailed character of regulation and a well-developed notarial practice; the Anglo-American model by the breadth of contractual freedom and the active role of judicial review; the Scandinavian model by the public nature of the contract through electronic registers; and the post-Soviet model by the relative novelty of the institution and the prevalence of mandatory provisions.

The current regulation of the marital contract in the Republic of Uzbekistan corresponds to the post-Soviet model and is characterised by a number of limitations. The list of permissible terms enshrined in Article 30 of the Family Code covers only the property relations of spouses and does not make it possible to regulate many practically significant issues – the management of joint business assets, the distribution of shares in commercial organisations, or the contractual regulation of maintenance obligations. In addition, there is no unified electronic register of marital contracts, which reduces their enforceability against third parties and creates legal risks for the spouses' creditors.



On the basis of the research conducted, a number of directions are proposed for improving the institution of the marital contract in the Republic of Uzbekistan. First, it is advisable to expand the list of permissible terms of the marital contract by adding provisions on the procedure for managing the spouses' business assets and on the distribution of shares in commercial organisations. Second, it appears reasonable to introduce the possibility of contractual regulation of certain aspects of maintenance obligations between spouses, while preserving guarantees of the rights of a disabled needy spouse. Third, there is a need to clarify the grounds for declaring a marital contract invalid – in particular, to give substance to the evaluative concept of an “extremely unfavourable position” contained in Article 31 of the Family Code.

The introduction of modern digital solutions is of particular importance. The experience of the Scandinavian countries and Germany shows the effectiveness of creating a unified electronic register of marital contracts, which ensures the public character of the fact of the conclusion of the contract and of its principal terms while preserving the confidentiality of its detailed content. The development of electronic notarisation in relation to the certification of marital contracts also deserves attention – corresponding practice has been successfully implemented in Estonia and Finland and can be adapted to the national legal system of the Republic of Uzbekistan.

An important component of the proposed changes is raising the legal culture of the population. The low prevalence of the marital contract in the Republic of Uzbekistan is largely due to the insufficient awareness of citizens regarding the legal possibilities of this institution and to persistent stereotypical perceptions of the marital contract as a manifestation of distrust between spouses. Overcoming such perceptions requires purposeful awareness-raising work with the participation of the Ministry of Justice, the Chamber of Advocates, the notarial chamber, and educational institutions.

The implementation of the proposed directions should be carried out in stages. At the first stage, it is advisable to introduce technical and organisational changes – electronic notarisation and a register of contracts; at the second stage, to expand the list of permissible terms of the contract; at the third stage, to consider deeper reforms affecting the subject matter of the contract and the default property regime. Such an approach will make it possible gradually to form the necessary law-enforcement practice and to adapt society to the new legal institutions.

In conclusion, it should be noted that the institution of the marital contract in the Republic of Uzbekistan is in a stage of active development. The objective processes of the strengthening of the institution of private property, the development of entrepreneurship, and the growth of the property independence of citizens create the preconditions for its further spread. The use of the best achievements of foreign experience, with reasonable adaptation to national conditions and reliance on the country's own legal tradition, appears to be the most promising way of improving this institution. The implementation of the proposals formulated will contribute to strengthening the legal foundations of family relations, to the protection of the spouses' property rights, and to the prevention of property conflicts in the modern Uzbek family.



**References**

1. Family Code of the Republic of Uzbekistan: adopted on 30 April 1998 (as amended) // National Database of Legislation of the Republic of Uzbekistan. – URL: <https://lex.uz>
2. Civil Code of the Republic of Uzbekistan: adopted on 21 December 1995 (as amended) // National Database of Legislation of the Republic of Uzbekistan. – URL: <https://lex.uz>
3. Antokolskaya M.V. Family Law: textbook. – 3rd ed., revised and supplemented. – Moscow: Norma, 2019. – 432 p.
4. Burkhanova L.M. Historical aspects of the development of marriage legislation in the Republic of Uzbekistan // Oriental Renaissance: Innovative, educational, natural and social sciences. – 2024. – No. 4(01). – P. 225–232.
5. Zvenigorodskaya N.F. The marital contract: the general and the particular in its regulation by the states of the post-Soviet space // Bulletin of the Saratov State Law Academy. – 2016. – No. 3(110). – P. 45–48.
6. Karimova Z.L. Legal regulation of relations between spouses in the Republic of Uzbekistan: abstract of Cand. Sc. (Law) dissertation. – Tashkent, 2020. – 28 p.
7. Otegenova L.Zh. Legal regulation of the marital contract under the family legislation of the Republic of Uzbekistan: abstract of Cand. Sc. (Law) dissertation. – Tashkent, 2012. – 26 p.
8. Chefranova E.A. Restrictions on the freedom of the marital contract in family law // Journal of Russian Law. – 2020. – No. 5. – P. 97–101.
9. Lowe N., Douglas G. Bromley's Family Law. – 12th ed. – Oxford: Oxford University Press, 2021. – 1072 p.
10. Scherpe J.M. (ed.) European Family Law. Volume III: Family Law in a European Perspective. – Cheltenham: Edward Elgar Publishing, 2016. – 384 p.

