

The Evolution of Administrative Judicial Procedure and The Implementation of Its Doctrinal Foundations in Uzbekistan: A Comparative Analysis

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Received: 30 April 2026; **Accepted:** 22 May 2026; **Published:** 05 June 2026

Abstract: This paper examines the theoretical foundations and evolutionary trajectory of administrative justice in Uzbekistan, analyzing its transition from a post-Soviet model to a specialized judicial system. By employing a comparative analysis of the “Dualist” (Continental) and “Monist” (Anglo-Saxon) models, the study identifies Uzbekistan’s system as a “Hybrid Model”, synthesizing specialized administrative courts with a unified Supreme Court oversight. The research explores the doctrinal shift from an adversarial approach to an inquisitorial (“active court”) framework intended to address power imbalances between the state and the citizen. Furthermore, the paper utilizes empirical data from the World Justice Project (WJP) Rule of Law Index (2020–2024) to assess the practical challenges of implementation, specifically regarding judicial independence and the enforcement of decisions. The findings suggest that while the institutional framework has been successfully established, significant challenges remain in ensuring freedom from government influence.

Keywords: Administrative Justice, Administrative Procedure, Hybrid Model, Judicial Review, Uzbekistan, Rule of Law.

Introduction: The formation of the institution of administrative justice stems not merely from the organizational needs of state administration, but from the evolutionary development of the idea of protecting natural, inalienable human rights from the arbitrariness of state power (Kingsbury, 2009). From the natural law school represented by John Locke and Jean-Jacques Rousseau to modern international legal systems, the objective has been to secure equality and justice. Administrative justice serves as the mechanism for this security, requiring effective judicial review of state actions and adherence to due process of law (Perlingeiro, 2016a).

In Uzbekistan, the evolution of administrative judicial procedure represents a significant shift in the legal paradigm. The reforms initiated in 2016–2017 aimed to institutionalize the German concept of *Rechtsstaat* (rule of law), ensuring state accountability through specialized courts (Khamedov et al., 2023). This paper analyzes the doctrinal foundations of this evolution,

comparing Uzbekistan’s approach with global models and evaluating its practical implementation through statistical and index-based analysis.

Theoretical Framework and Comparative Models

The evolution of administrative justice globally is generally categorized into three civilizational models: the Dualist Model (Continental Europe), the Monist Model (Anglo-Saxon), and the Hybrid Model. Each model reflects a distinct legal philosophy regarding the relationship between the state and the individual, the allocation of judicial power, and the mechanisms through which citizens can challenge administrative action. These models did not emerge in a vacuum; they developed in response to differing historical trajectories, conceptions of state authority, and traditions of public administration.

Studies conducted across various jurisdictions have highlighted these dynamics, including the works of Awaisheh et al. (2023), Held (2022), Kingsbury (2009),

Nematov (2020), Perlingeiro (2016a; 2016b), Rastorhuiev et al. (2021), Sevryugin (2022), and Silveira et al. (2022), each of which examines specific country cases. As countries reformed their governance structures, their approaches to administrative justice became embedded within broader constitutional and legal cultures, producing durable institutional logics.

1. The Dualist Model (Continental Europe)

Originating in France and Germany, the Dualist Model is characterized by a strict separation between administrative and ordinary courts. Held (2022) notes that this structural divide reflects a deliberate commitment to preserving the autonomy of the administrative apparatus, ensuring that administrative acts are reviewed only by bodies equipped with specialized public law expertise. Its philosophical foundations can be traced to the political thought of Montesquieu and Rousseau, who conceptualized the executive as the embodiment of the general will. In their view, the executive should be insulated from undue interference by ordinary courts, which were perceived as institutions of private law rather than guardians of public authority (Montesquieu, 2011). This intellectual lineage directly informed the creation of the French Conseil d'État and later inspired German administrative courts, both of which developed sophisticated doctrines to balance state prerogatives with individual rights (Bell & Lichère, 2022). Over time, it became the apex institution of French administrative justice, simultaneously shaping legal doctrine, supervising the legality of administrative action, and modeling a system in which the administration is subject to a specialized and expert judicial oversight. Its influence extended far beyond France, serving as the foundational template for dualist systems across continental Europe.

2. The Monist Model (Anglo-Saxon)

In contrast, the Anglo-Saxon tradition, primarily in the UK and USA, relies on a "Single Court System" (Monism). This approach is rooted in A.V. Dicey's concept of the "Rule of Law", which posits that equality requires all citizens and officials to be subject to the same general courts (Perlingeiro, 2016a).

Historical Roots of this model traces back to the King's Bench in the 12th century, which used prerogative writs to restrain lower bodies. The system relies on specific remedies such as certiorari (quashing a decision), mandamus (compelling action), prohibition (stopping action), and habeas corpus (Mashaw, etc, 2014).

While modern Monist systems have integrated specialized tribunals (e.g., in the UK after 1948) (Brian Z. Tamanaha, 2004), they remain under the supervisory

jurisdiction of a unified high court system. Nonetheless, these tribunals remain under the supervisory jurisdiction of the High Court, ensuring that administrative justice is integrated into, rather than segregated from, the general judicial structure. A similar pattern is seen in the United States, where administrative agencies operate with adjudicative functions yet remain subject to judicial review by ordinary federal courts (Thomas & Tomlinson, 2017).

Overall, the monist tradition maintains a strong commitment to judicial cohesion, common-law reasoning, and the idea that administrative accountability should be achieved through general courts rather than a distinct administrative judiciary.

3. The Asian Hybrid Model

A third "Hybrid Model" has emerged, particularly in Asia and Latin America, synthesizing elements of both traditions. This model combines the specialized court structure of Dualism with the unified supreme control characteristic of Monism (Perlingeiro, 2016b; Silveira et al., 2022). This approach allows for specialization while maintaining legal uniformity under a single Supreme Court.

The Evolution of Administrative Justice in Uzbekistan

1. Institutionalization of the Hybrid Model

Uzbekistan's administrative justice system has historically mirrored the European Dualist path—establishing the separation of powers first, followed by specialized courts. The Constitution of Uzbekistan (1992) enshrined the separation of powers but specialized administrative courts were only fully established following the 2016 reforms.

The current Uzbek system represents a Hybrid Model.

- **Dualist Elements:** It features specialized administrative courts (regional and district levels) distinct from criminal and civil courts (The Constitution of Uzbekistan, 1992).
- **Monist Elements:** Organizationally, these courts remain part of a unified judicial system under the supervision of the Supreme Court of the Republic of Uzbekistan. This structure aligns with the functional need to prevent the fragmentation of legal practice, a concern highlighted by scholars like Harlow and Rawlings regarding the risks of over-specialization.

2. Doctrinal Shift: From Adversarial to Inquisitorial

A critical aspect of the Uzbek reform is the shift in procedural doctrine. In civil proceedings, the process is adversarial (passive court), where the burden of proof lies entirely with the parties (Leyland & Anthony, 2013). However, recognizing the inherent inequality between a citizen and the state, Uzbekistan adopted the "Active

Court” (inquisitorial) principle for administrative cases. The Active Role of court is empowered to request evidence, call witnesses, and investigate facts on its own initiative, without relying solely on the parties' submissions.

Moreover, Burden of Proof under Article 76 of the Code on Administrative Judicial Procedure, the burden of proving the legality of a decision lies with the administrative body, providing a procedural safeguard for the citizen.

3. Functional Adaptation of Anglo-Saxon Remedies

Although Uzbekistan is rooted in the continental civil law tradition, its administrative justice reforms demonstrate a clear functional convergence with Anglo-Saxon judicial remedies. Rather than adopting the nomenclature of writs, Uzbekistan embeds their substantive functions within statutory procedures and judicial powers.

- In 2008, the principle of habeas corpus was formally incorporated into the Criminal Procedural Code, marking a significant shift toward judicial protection of personal liberty and aligning domestic practice with the common-law safeguard against unlawful detention (Khamedow et al., 2023). This reform signaled a broader movement toward strengthening judicial oversight over executive power.
- The core functions traditionally associated with certiorari, mandamus, and prohibition have likewise been absorbed into the competences of administrative courts (Musaev et al., 2020), even though they are not labeled as prerogative writs. Administrative judges are empowered to invalidate unlawful administrative acts

(functionally equivalent to certiorari), compel public authorities to act where legally required (mirroring mandamus), and restrain authorities from exceeding their legal powers (akin to prohibition). These remedies are codified through explicit statutory mechanisms within the Code of Administrative Judicial Procedure, ensuring both legality review and protection of individual rights (Eshimbetov, n.d.). This functional adaptation illustrates how Uzbekistan’s system blends civil law structure with common-law remedial logic. The result is a hybridized model of administrative justice that preserves codified procedural rigor while incorporating effective tools for judicial control traditionally associated with the monist Anglo-Saxon tradition.

Empirical Analysis and Implementation Challenges

1. Quantitative Growth

The demand for administrative justice in Uzbekistan is growing, reflecting increased civic engagement. In 2024, administrative courts reviewed 613,142 cases, with approximately 58–62% resolved in favor of citizens and entrepreneurs.

This aligns with global trends where administrative courts resolve a significant portion of disputes in favor of the public, thereby enhancing trust in the state²⁸.

2. Qualitative Assessment: World Justice Project (WJP) Analysis

Despite institutional success, qualitative indices reveal persistent challenges. The World Justice Project’s “Rule of Law Index” assesses administrative justice through “Civil Justice” factors (Carlos Botero et al., 2022).

Table 1: Dynamics of Civil Justice Factors in Uzbekistan (2020–2024).

Sub-factor	2020	2021	2022	2023	2024	Trend
Freedom from Improper Gov. Influence	0.09	0.09	0.08	0.08	0.07	Declining
No Unreasonable Delay	0.20	0.20	0.20	0.20	0.20	Stable
Effective Enforcement	0.12	0.12	0.12	0.12	0.12	Stable

Note: Scores range from 0.0 to 1.0, where 1.0 indicates optimal performance.

Analysis of Findings:

1. Government Influence. The score for “Freedom from Improper Government Influence” is critically low (0.07 in 2024) and demonstrates a consistent downward trajectory. This indicates that, despite constitutional and statutory guarantees of judicial independence, the practical reality reflects substantial executive leverage over judicial processes. Such influence may manifest through appointment mechanisms, budgetary dependence, administrative oversight, or informal political channels (Carlos Botero et al., 2022). The widening gap between formal guarantees and operational independence suggests

systemic vulnerabilities that inhibit the maturation of an autonomous judiciary capable of ensuring genuine checks on administrative power.

2. Enforcement. The score for “Effective Enforcement” remains stagnant at a very low 0.12, underscoring an enduring structural challenge. A judicial ruling that cannot be implemented loses its normative force and fails to deliver substantive justice. Weak enforcement may stem from insufficient institutional capacity, lack of coordination between courts and executive bodies, limited resources, or inconsistent compliance by administrative agencies (Boone & Langbroek, 2018). This stagnation reflects not

only procedural deficiencies but also deeper issues related to institutional culture and the willingness of state bodies to internalize judicial authority.

3. Correlation. These two dimensions are closely interconnected. Judicial independence is a prerequisite for credible enforcement, and enforcement practices, in turn, reinforce the authority and legitimacy of the judiciary. When the executive branch maintains significant influence over the judiciary, court decisions—particularly those that challenge administrative discretion—are less likely to be effectively executed (Kaplunov & Ukhov, 2023). Conversely, poor enforcement weakens judicial authority, making courts more susceptible to external pressure. This mutually reinforcing dynamic produces a cycle in which administrative justice is constrained both at the decision-making stage and at the implementation stage. Addressing one dimension without the other is unlikely to yield meaningful reform, as the effectiveness of administrative adjudication depends simultaneously on independence and compliance (Shevchuk et al., 2023).

DISCUSSION

The establishment of specialized administrative courts in Uzbekistan creates a “Hybrid Model” that attempts to balance the specialization of the Continental tradition with the unified control of the Anglo-Saxon tradition. The introduction of the “Active Court” principle addresses the power imbalance inherent in state-citizen relations.

However, the analysis of WJP data indicates that institutional separation is insufficient without functional independence. The persistence of “Soviet-style thinking” regarding the dominance of the state apparatus over the judiciary remains a hurdle (Nematov, 2020). For the administrative justice system to serve as a true stabilizer of society and a guarantor of legitimacy, reforms must move beyond legislative changes to address the legal culture and the practical enforcement of judicial decisions against state bodies.

CONCLUSION

The evolution of administrative judicial procedure in Uzbekistan has successfully moved from a fragmented post-Soviet framework to a more coherent and institutionally articulated Hybrid Model. This transformation reflects deliberate legal engineering aimed at reconciling two historically divergent traditions: the Dualist model’s emphasis on specialized administrative courts and the Monist model’s reliance on functional judicial remedies. The resulting architecture combines codified procedures, professionalization of administrative judges, and substantive review powers that align with comparative

international standards.

A central milestone in this evolution is the doctrinal shift toward an inquisitorial procedure, which places the court at the center of fact-finding and legality review rather than relying on adversarial confrontation between parties. This shift markedly strengthens the protection of human rights, particularly in cases where individuals face a structurally stronger administrative authority. By positioning the judge as an active guarantor of legality, the system reduces informational asymmetry and enhances procedural fairness, echoing the more advanced European models of administrative adjudication.

However, the system’s formal sophistication is not yet matched by its practical effectiveness. The declining indicators of judicial independence and the persistent stagnation in enforcement mechanisms demonstrate that the “Doctrinal Foundations” have been legally codified but remain only partially realized in practice. In other words, the legal transplant has been successful at the normative level but has not yet fully taken root sociologically or institutionally. Executive influence, administrative non-compliance, and uneven institutional capacity continue to impede the realization of a fully autonomous and effective administrative judiciary.

Looking ahead, the sustainability of Uzbekistan’s Hybrid Model depends on two critical factors. First is the consolidation of “de facto judicial independence”, which requires insulating administrative judges from political or administrative pressure, enhancing their security of tenure, and improving transparency in appointments and promotions. Second is ensuring that executive bodies consistently and promptly comply with court decisions, reinforcing the authority of administrative courts and establishing a culture of legality within public administration. Without progress in these areas, the promise of the Hybrid Model risks remaining aspirational rather than transformative.

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