The American Journal of Political Science Law and Criminology
ISSN 2693-0803 Volume 08 - 2026

Ground-Related Judicial Dispute Resolution Theoretical and Practical Problems: National Experience and The Implementation of Foreign Institutions

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Received: 28 Mar 2026 | Received Revised Version: 26 April 2026 | Accepted: 24 May 2026 | Published: 08 June 2026

Volume 08 Issue 06 2026 | Crossref DOI: 10.37547/tajpslc/Volume08Issue06-08

Abstract

This scientific article analyzes the legal nature of disputes arising from land relations, the procedural features of their judicial review, and systemic problems in the application of substantive law norms.

The article discusses issues such as the invalidation of acts by local government authorities on the allocation and seizure of land, the return of land plots for state and public needs with compensation, as well as jurisdiction between economic and civil courts.

The comparative-legal part of the article examines the practice of applying land dispute resolution mechanisms (mediation), easement, and the institution of "eminent domain" through alternative methods in continental (Germany, South Korea) and Anglo-Saxon (Great Britain, USA) legal systems, and puts forward scientific and practical proposals for improving national legislation.

Keywords: Land disputes, judicial practice, administrative court, economic court, state needs, compensation, easement, bona fide buyer, foreign experience, mediation.

Cite This Article: Jurayev Javlonbek Norboboevich. (2026). Ground-Related Judicial Dispute Resolution Theoretical and Practical Problems: National Experience and The Implementation of Foreign Institutions. The American Journal of Political Science Law and Criminology, 8(06), 89–94. https://doi.org/10.37547/tajpslc/Volume08Issue06-08

1. Introduction

If land is considered the basis for human life, then it is considered property in a legal sense.

In a market economy, land resources are not only a natural object and the basis of human existence, but also the most valuable economic asset, an active and transforming object of civil circulation.

The fundamental agrarian and economic reforms carried out in the Republic of Uzbekistan in recent years, in particular, the privatization of land plots and the introduction of a system for their sale through electronic online auctions, have opened a qualitatively new era in the field of land law.

However, the expansion of land ownership rights and lease relations, in turn, is causing a quantitative and qualitative increase in legal disputes in this area, placing

a high responsibility on the judicial bodies that resolve them.

Based on the requirements of Article 68 of the Constitution of the Republic of Uzbekistan, considering that land is a national wealth, the necessity of its rational use, and its protection by the state, the resolution of land disputes by courts is regulated by the Land Code of the Republic of Uzbekistan and other legislative acts regulating land relations [1-2].

The legal nature of disputes arising from land relations is that they combine both public law (administrative) and private law (civil, economic) elements.

This creates serious problems in the application of substantive and procedural legal norms in judicial practice, in the distribution of cases based on the principle of jurisdiction, and in ensuring a balance between the interests of bona fide owners and the state.

In the process of analyzing national judicial practice, the primary systemic problem encountered is the question of which court considers land-related cases, specifically regarding jurisdiction.

of the Code of Administrative Court Proceedings

In accordance with Article 27, cases challenging decisions, actions (inaction) of local government authorities, state administration bodies, other bodies authorized to carry out administrative and legal activities (hereinafter referred to as administrative bodies), citizens' self-government bodies, and their officials that do not comply with legislation and violate the rights and legally protected interests of citizens or legal entities shall be considered by administrative courts [2].

However, in practice, a claim for the invalidation of a khokim's decision often involves the civil legal interests of another entity (for example, the neighboring landowner or the subsequent bona fide buyer), as well as the right of ownership or lease.

According to paragraph 8 of the Resolution of the Plenum of the Supreme Court dated November 20, 2023, No. 28 "On certain issues of applying the norms of legislative acts when considering land disputes in courts," disputes related to compensation for damage caused to landowners, land users, tenants, and owners of land plots are considered by civil courts or economic courts according to their jurisdiction [3].

That is, if the requirement to declare the khokim's decision invalid affects the rights and legitimate interests of other persons and thereby creates a dispute over the right, this case must be considered by civil courts or economic courts (depending on the composition of the subjects).

Also, according to paragraph 10 of the Resolution, public law disputes related to the action (inaction) or decision of an administrative body before putting an object up for tender or auction are subject to the jurisdiction of administrative courts, and disputes arising from the results of an auction or tender (for example, declaring a transaction, auction or tender invalid, cancellation, change of a transaction) are subject to the jurisdiction of civil courts or economic courts, respectively.

However, administrative courts often accept the case into their proceedings, ignoring the civil law dispute within the case, as the statement of claim only asks to challenge the act of the state body.

As a result, the administrative court overturns the khokim's decision, but the fate of the third party who built or invested in the land based on this decision remains uncertain, and they are now forced to appeal to a civil or economic court to protect their rights. This leads to the embarrassment of citizens and the emergence of several parallel court decisions regarding the same land plot.

The second and most pressing issue in this area is the seizure of land plots for state and public needs and related compensation disputes.

Despite the principle of inviolability of property, enshrined at the constitutional level, violations of the law are frequently encountered in practice when seizing land under the pretext of implementing urban planning and infrastructure projects.

When considering cases of this category, courts face difficulties in determining the adequacy of compensation and its compliance with market value.

Land Code and "On the procedure for the withdrawal of land plots for public needs with compensation"

In accordance with Law No. ZRU-781, the compensation

provided in connection with the seizure of a land plot must include not only the market value of the buildings and structures on the land, but also all losses incurred by the owner in connection with the seizure of this land, including lost profits [4].

In judicial practice, there is an imperfection in the methodology for calculating lost profits by appraisal organizations, or attempts by khokimiyats to artificially reduce the amount of damage in order to save budget funds.

Although courts should appoint independent and impartial appraisal expertise in this situation, there are sometimes cases where decisions are made based on calculations provided by government agencies.

However, the principle of the priority of the rights of a conscientious business entity or citizen (the administrative equivalent of the concept of presumption of innocence / favor debitoris) must be strictly ensured by courts, until a full agreement on compensation is reached between the parties or the court decision enters into legal force.de demolition is strictly prohibited.

Relations regarding the use and seizure of agricultural land, specifically leased land provided to farms, are also among the hot spots in judicial practice.

Previously, local authorities unilaterally revoked the land rights of farmers on the grounds of misuse of land or violation of contract terms.

Recent legislative reforms have put an end to this practice, and the termination of agricultural land lease agreements has been transferred solely to judicial proceedings.

When considering cases of this category, economic courts are required to thoroughly verify the legality and validity of acts on "misuse of land" or "reduction of land fertility" submitted by competent authorities (for example, the Ministry of Agriculture or land control inspections).

Court practice shows that in many cases, state bodies filing lawsuits for land seizure approach the court with superficially formalized documents without conducting agrotechnical or soil-climatic expertise of the land's condition.

Courts, based on the principle of retroactivity and objectivity, must dismiss the claim if they find that the farmer was unable to fulfill the obligation for objective reasons (water shortages, natural disasters, interruptions in the supply of raw materials).

In conditions of limited land resources, the goal of the state should be not to punish the land user and seize the land, but to create economic and legal conditions for its efficient use.

Another serious obstacle in resolving land disputes is technical errors in cadastral documentation and inaccuracies within the geodetic system.

It has been established that when maps and coordinate systems left over from the Soviet era or maintained in paper form during the early years of independence are transferred to today's digital satellite monitoring (GPS) system, the boundaries of land plots overlap.

This led to long-term wars and conflicts between neighboring landowners.

In such a situation, civil courts cannot rely solely on a paper cadastral passport. Because both parties may have a legal cadastral document issued by the authorized state body.

In judicial practice, forensic geodetic or forensic construction-technical expertise is appointed to resolve such complex problems.

On-site, experts must conduct a comparative analysis of the historical boundaries of land in actual use, the location of buildings, and the dimensions in the initial land allocation decisions.

Here, the principle of "neighborly law" comes into play; that is, the use of one party's land must not lead to encroachment on the land of the other party or the unjustified restriction of its right to use natural light or water (the issue of easement).

Another issue related to servitude.

Although the consideration of land disputes in court does not differ much from the procedure for considering other claims, during the study, it can be seen that there are different approaches to the application of procedural legislation when considering land disputes.

In particular, different practices have been established regarding the mandatory or non-mandatory procedure for pre-trial dispute resolution (claim) when establishing easement.

According to Article 30 of the Land Code, the right of limited use of another's land plot (servitude) is the right of the owner of a real estate (land plot, other real estate) to use a neighboring land plot, and in necessary cases, another land plot, in a limited manner.

In this case, there are no clarifications in the Code or Plenum decisions regarding whether an agreement is a pre-trial dispute resolution procedure, whether sending an offer to establish easement is mandatory, or whether the offer must be in oral or written form.

However, as a result of the fact that disputes related to the establishment of easement may arise between individuals and legal entities, and that it is not necessary to prove or prove the achievement or non-achievement of an agreement, the norms of the law are interpreted differently by the courts.

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In order to increase the efficiency of resolving land disputes in the national judicial system, the comparative legal study of the experience of developed foreign countries and the implementation of their positive aspects are of great scientific importance.

The experience of the Federal Republic of Germany (FRG), where a continental legal system operates, is very effective in this regard.

Land relations and land disputes in Germany are strictly regulated by the German Civil Code (BGB - Bürgerliches Gesetzbuch) and the Regulation on Administrative Litigation (VwGO) [5].

A distinctive feature of the German legal system is that the land plot and the buildings and structures located on it are considered a single property (absolute property).

That is, there is no concept of "land belongs to the state, buildings are private," as in Uzbekistan.

If a land plot is in private ownership, the space above and below it also belongs to the owner (with some exceptions).

In Germany, the process of the seizure of land for state needs (Enteignung) is carried out only on the basis of law and only if it is strictly necessary for the public welfare (Gemeinwohl). The most important aspect here is that the compensation amount must cover not only the market value of the property but also all indirect expenses incurred by the owner for moving to a new location and restoring their previous socio-economic status.

German administrative courts apply the "principle of proportionality" (Verhältnismäßigkeitsprinzip) when overturning the decisions of local authorities that are an alternative to the authorities: the benefit to the state must outweigh the harm to the owner, and there must be no other alternative path to achieving this goal that does not restrict the right of ownership. If there is an alternative, the court shall unconditionally vacate the decision of the state body.

The experience of the United Kingdom and the United States, which belong to the Anglo-Saxon legal system, relies on common law and precedents when resolving land disputes [6].

In U.S. constitutional law, the compulsory acquisition of land for state needs is called "Eminent Domain" (Supreme Ownership), and it is limited by the Fifth Amendment to the U.S. Constitution.

According to this amendment, private property cannot be withdrawn for public needs without just compensation.

In American judicial practice, the concept of "fair compensation" is interpreted very broadly and requires that a land plot be evaluated based on its "highest and best use" potential.

For example, if the land being withdrawn is currently agricultural land, but there is an opportunity to build a residential complex on it in the future, the court may require compensation to be determined at the price of the construction site rather than at the price of the ordinary cultivated area.

In addition, there is the concept of "Regulatory Taking" in the USA.

If a state body does not physically seize the land, but limits the owner's ability to derive economic benefits from it by 90-100% through environmental or urban planning restrictions, the court will consider this a covert seizure and impose an obligation on the state to compensate the owner for the damage.

This is very important for the system of recovery of damages from state bodies that have unjustifiably restricted the right to use land in our national legislation.

In the UK, one of the most effective mechanisms for resolving land disputes is the system of specialized quasi-judicial bodies, namely the Land Tribunals (Lands Chamber of the Upper Tribunal).

These tribunals, unlike ordinary courts of general jurisdiction, include not only professional judges but also highly qualified independent experts in the fields of land management, appraisal, geodesy, and architecture.

The advantage of land tribunals is that they can analyze technical and economic issues regarding land valuation, border disputes, and easements much more quickly, professionally, and deeply than an ordinary judge.

This system will reduce the duration of court proceedings and ensure the reliability of expert opinions.

The experience of South Korea, which has achieved high levels of legal and economic development on the Asian continent, is also very close and useful for Uzbekistan.

In South Korea, compulsory and voluntary alternatives to pre-trial settlement of land disputes (ADR - Alternative Dispute Resolution), particularly the Land Dispute Mediation Committee, are very active [7].

These committees will be established under local authorities and will include lawyers, public representatives, and land experts.

Border disputes between neighbors, issues of determining the amount of rent, or small amounts of compensation are considered in this committee before the court.

A mediation agreement adopted by the Committee and signed by the parties shall have the force of a court decision. If one of the parties fails to comply with this agreement, the other party may directly apply to the enforcement body.

This system has freed South Korean courts from thousands of minor land disputes and contributes to the saving of state resources.

Based on a systematic analysis of foreign experience and national judicial practice, the following conceptual proposals and recommendations aimed at improving the system for resolving disputes arising from land relations in the Republic of Uzbekistan can be put forward:

It is proposed to state Article 36 of the Land Code of the Republic of Uzbekistan in the following wording:

"In the event that the owner, user, lessee, or owner of a land plot commits actions (departure abroad, non-use of the land plot for a period exceeding the established period) that clearly indicate a waiver of rights to the land plot, this land plot shall be accounted for as ownerless property in the manner prescribed by law upon the application of the relevant state body or citizens' self-government body."

In addition,

First, in order to eliminate the chaos regarding jurisdiction and introduce the "one-stop shop" principle into the judicial system, it is necessary to introduce the concept of "full jurisdiction" into the legislation.

If the decision of the khokim is challenged in the administrative court and there is a dispute in the case regarding the property rights of third parties, the administrative court should have the authority to resolve these civil law consequences in its decision without transferring the case to another court or rejecting the claim.

Or, conversely, when considering a land contract, the economic court must be able to assess the legality of the khokim's decision that served as the basis for it. This will prevent citizens from wandering from one court to another.

Secondly, based on the experience of Germany and the United Kingdom, it is necessary to expand the institution of forensic experts-consultants in the national judicial system or to create a permanent corps of specialists on land, geodetic, and appraisal issues under economic and administrative courts.

It is difficult for a judge to independently understand a geodetic map or a methodology for assessing the market value of land; therefore, an expert's opinion must be heard during the trial, and it must be legally established that they will provide objective technical assistance to the court.

Thirdly, when seizing land for state needs, it is necessary to implement the principles of "Regulatory Taking" in the USA and "proportionalism" in Germany into the National Land and Urban Planning Codes.

When a state body restricts land use or expands sanitary protection zones, a system of mandatory compensation for economic damage caused to the owner should be created, even if it is not a physical "demolition."

Also, a strict and limited list of the concept of "state and public needs" (infrastructure, defense, large social facilities) should be determined in the law, and the courts should monitor that the compulsory seizure of land for any private developer or commercial project is not allowed.

Fourthly, based on the experience of South Korea, it is advisable to introduce a mandatory pre-trial mediation procedure for land boundary and neighborhood disputes. Disputes between citizens related to disputes over 1-2 meters of land should be considered in local land commissions created with the participation of the Cadastre Agency and regional mediators, and only if a settlement is not reached there should a lawsuit be allowed to be filed in court. This will reduce the workload of civil courts by at least 30-40 percent.

Fifth, in judicial practice, it is necessary to raise the protection of the " bona fide possessor" to an absolute level. If a citizen or entrepreneur purchased a land plot from the state through an open auction or by relying on cadastral documents from a previous owner, the state should not have the right to seize the land from a conscientious owner, even if a violation of the law is later identified in the history of this land (for example, in a decision by the khokim 5-10 years ago).

The state must recover damages from the officials who committed the error of its agencies (the khokimiyat or the cadastre), and a conscientious entrepreneur or citizen must not suffer. This principle will fundamentally increase Uzbekistan's rating of international investment attractiveness and property inviolability.

2. Conclusion

In conclusion, the modernization of the judicial resolution system for disputes arising from land relations is a task of not only legal but also strategic economic importance. By enriching judicial practice with advanced, proven foreign institutions, integrating digital technologies and geodetic accuracy into forensic expertise, and ensuring the principle of the priority of property rights in practice, we will achieve the creation of a fair, transparent, and stable land law system. This, in turn, serves as a solid foundation for the rule of law and economic development in the country.

References

1. The Constitution of the Republic of Uzbekistan
2. Land Code of the Republic of Uzbekistan. - 01.07.1998 (with the latest changes and additions), https://lex.uz/uz/docs/152653#153979
3. "Code on Administrative Litigation." - 01.04.2018, https://lex.uz/docs/3527353
4. Resolution of the Plenum of the Supreme Court No. 28 dated November 20, 2023, "On certain issues of applying the norms of legislative acts when considering land disputes in courts." https://lex.uz/ru/docs/6687150
5. Law No. ZRU-781 dated June 29, 2022 "On procedures for the seizure of land plots for public needs with compensation." https://lex.uz/ru/docs/6087433#6089229
6. Bürgerliches Gesetzbuch (BGB) – German Civil Code (English text and commentaries).
7. United States Constitution, Fifth Amendment - analysis of the concepts of "Eminent Domain" and "Just Compensation."
8. Lands Chamber of the Upper Tribunal Guide - a guide to the activities of UK Land tribunals.