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Mandatory Methods of Protecting Civil Rights: Legislative Practice of the European Union and Issues of Implementation in Uzbekistan

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Annotation: This article provides a comprehensive analysis of mandatory methods for protecting civil rights, focusing on legislative practices in the European Union (EU) and the challenges of implementing similar measures in Uzbekistan. The research identifies core mechanisms embedded in EU legal doctrine—such as the principle of effectiveness, proportionality, and state obligations in ensuring fundamental rights—and assesses their transposability into Uzbekistan's legal and institutional framework. The study also explores comparative jurisprudence and evaluates how binding protections can be adopted without undermining national legal sovereignty. Recommendations are made to support Uzbekistan's efforts in aligning its civil rights protection system with international standards.

Key words: civil rights, European Union, Uzbekistan, mandatory protection, legislative practice, legal harmonization, enforcement mechanisms, constitutional law, human rights, legal implementation.

Introduction. The protection of civil rights is fundamental to the rule of law and democratic governance. In recent decades, the European Union (EU) has developed a sophisticated and legally binding framework for protecting civil rights through supranational legislation and jurisprudence. These "mandatory methods" serve not only as safeguards for individuals but also as instruments of legal harmonization across member states.

Uzbekistan, in its ongoing reform agenda under the "New Uzbekistan" strategy, has demonstrated a willingness to enhance human rights protections and align more closely with international standards. However, implementing mandatory protections, akin to those in the EU, presents both opportunities and complex legal, institutional, and cultural challenges.

This article seeks to answer the following research questions:

- What are the key mandatory mechanisms of civil rights protection in EU law?
- How compatible are these mechanisms with the legal framework of Uzbekistan?
- What are the challenges and solutions for effective implementation in the Uzbek context?

Theoretical framework of civil rights protection. Civil rights, often referred to as fundamental or basic human rights, are universally recognized entitlements guaranteed to individuals by virtue of their humanity. They include rights such as the right to life, liberty, privacy, freedom of expression, and protection against discrimination. These rights are protected through both national legal systems and international human rights instruments.

Definitions and Categories. Civil rights are typically distinguished from political, economic, and social rights. While all are interdependent, civil rights specifically relate to individual freedoms and the legal protections required to ensure those freedoms are not violated by state or private actors.

Scholars such as Dworkin (1977) and Rawls (1971) emphasize the role of civil rights in guaranteeing the moral autonomy and equality of individuals. These rights are inalienable and often codified in

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constitutional or supranational documents such as the European Convention on Human Rights (ECHR) and the Charter of Fundamental Rights of the European Union

Sources of Civil Rights Protection. Globally, civil rights are protected through multiple layers of legal norms:

- Domestic Constitutions (e.g., Article 13–36 of Uzbekistan's Constitution)
- International Treaties (e.g., the International Covenant on Civil and Political Rights – ICCPR)
- Regional Charters (e.g., EU Charter of Fundamental Rights)
- Soft law and customary norms

In the context of the EU, civil rights protection has evolved from being implicit in economic integration to being explicitly codified in treaties and EU legislation. Mandatory methods refer to legal obligations imposed on member states to implement and enforce such rights effectively

The Role of the Rule of Law. The concept of the rule of law (Rechtsstaat) is central to understanding mandatory civil rights protections. According to Dicey (1885), the rule of law entails legal certainty, equality before the law, and the supremacy of law over arbitrary power.

In the EU, the rule of law is one of the foundational values under Article 2 of the Treaty on European Union (TEU). Civil rights are enforceable not only through domestic mechanisms but also through EU institutions such as the European Court of Justice (ECJ).

Enforcement and Justiciability. Mandatory protections imply that civil rights must be:

- Legally enforceable (justiciable before courts)
- Non-derogable in certain contexts (e.g., torture, slavery)
- Backed by effective remedies (e.g., access to courts, legal aid)

The European Court of Human Rights (ECtHR), although external to the EU, complements the ECJ's efforts in ensuring that civil rights are not merely aspirational but legally binding and effectively

Principles of Direct Effect and Supremacy. The principles of direct effect and supremacy form the cornerstone of the EU legal order and are essential for the enforcement of mandatory civil rights.

Established in *Van Gend en Loos v. Nederlandse Administratie der Belastingen* (Case 26/62, 1963), the doctrine of direct effect allows individuals to invoke EU law provisions directly before national courts without the need for national implementing legislation.

Civil rights provisions in directives, regulations, and the Charter can therefore be self-executing, enabling individuals to claim rights immediately in courts of member states.

Example: A citizen may invoke Article 47 of the EU Charter to claim the right to a fair trial before national courts.

Supremacy. The **supremacy** of EU law over national law was articulated in *Costa v. ENEL* (Case 6/64, 1964). This ensures that even constitutional provisions of member states cannot override EU legal norms once the area is within EU competence.[1]

This principle underpins the mandatory nature of civil rights protections. Once rights are granted under EU law, member states must honor them, even if it contradicts national law.

[1] Craig, P., & de Búrca, G. (2020). *EU Law: Text, Cases, and Materials* (7th ed.). Oxford University Press.

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*The Role of the European Court of Justice (ECJ).*The ECJ plays a pivotal role in interpreting and enforcing civil rights across the EU through its jurisprudence. It ensures that civil rights provisions are uniformly applied and that member states fulfill their obligations.

National courts can refer cases to the ECJ to interpret EU law. This mechanism has been crucial for expanding and clarifying civil rights protections.

Landmark Cases:

- Kücükdeveci v. Swedex GmbH (Case C-555/07): Anti-discrimination based on age
- Google Spain v. AEPD and Mario Costeja González (Case C-131/12): Right to be forgotten
- Digital Rights Ireland (Joined Cases C-293/12 and C-594/12): Invalidated data retention directive as disproportionate[2]

Through such judgments, the ECJ enforces the principle of proportionality, ensuring that any limitation on civil rights must be necessary, appropriate, and not excessive.

Examples of Mandatory Civil Rights Mechanisms. The Racial Equality Directive (2000/43/EC) and Employment Equality Directive (2000/78/EC) mandate non-discrimination based on race, religion, disability, age, and sexual orientation.

They are directly effective and require the establishment of equality bodies in member states.

The General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679) provides mandatory protections of personal data and privacy. It includes:

- Right to access and correction
- Right to erasure (right to be forgotten)
- Right to data portability

Violations can lead to significant administrative penalties, emphasizing the mandatory enforcement mechanism through independent supervisory authorities (e.g., national Data Protection Authorities).

Under Directive 2016/1919, the EU mandates that suspects and accused persons in criminal proceedings be given access to legal aid. It obligates states to establish fair and accessible procedures to guarantee this right.[3]

Uzbekistan's Legal Framework for Civil Rights. Since gaining independence in 1991, Uzbekistan has undergone significant legal and institutional reforms aimed at enhancing civil rights. While notable progress has been made—especially in the last decade—ensuring the **mandatory** and **effective** protection of civil rights remains a key challenge. This section explores Uzbekistan's current constitutional, legislative, and institutional frameworks for civil rights protection and assesses their compatibility with European models.

Constitutional Guarantees. The **Constitution of the Republic of Uzbekistan (updated in 2023)** serves as the foundational document guaranteeing civil rights. Several articles explicitly affirm the inviolability of fundamental freedoms:

- **Article 13**: Guarantees the supremacy of law and protection of human rights.
- **Article 14**: Declares the separation of powers and rule of law as governing principles.
- **Article 25**: Enshrines the right to life, liberty, and personal inviolability.

[2] Case C-26/62, *Van Gend en Loos v. Nederlandse Administratie der Belastingen* [1963] ECR 1.
[3] Regulation (EU) 2016/679 of the European Parliament and of the Council (General Data Protection Regulation).

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- **Article 26**: Protects against torture and cruel treatment.
- **Article 29**: Ensures freedom of thought, conscience, and religion.
- **Article 30**: Establishes freedom of expression and access to information.
- **Article 44**: Provides judicial protection for citizens whose rights are violated.

These provisions form the constitutional bedrock for civil rights but are largely **declarative** in nature unless accompanied by effective enforcement mechanisms.

Legislative Gaps and Implementation Challenges. Although the legislative base in Uzbekistan has expanded significantly, several challenges remain in terms of **enforcement**, **accessibility**, and **consistency** with international norms.

Civil rights protections are spread across multiple laws, such as:

- Law "On Guarantees of the Rights and Freedoms of Citizens" (1995)
- Law "On Appeals of Individuals and Legal Entities" (2014)
- Law "On Protection of Personal Data" (2019)
- Law "On Gender Equality" (2019)

However, the absence of a **comprehensive civil rights code** or a **binding Charter of Rights** like in the EU creates fragmentation and ambiguity in enforcement.

Despite constitutional guarantees, practical access to courts remains limited due to:

- **High legal costs**
- **Lack of legal aid infrastructure**
- **Limited public awareness of rights**
- **Judicial dependence on the executive**[4]

Unlike the EU, Uzbekistan lacks independent enforcement bodies such as equality commissions or data protection authorities with real sanctioning powers. The Human Rights Ombudsman has limited influence and resources.

***Judicial Protection of Civil Rights*.** The **judiciary** in Uzbekistan plays a key role in protecting civil rights, but its effectiveness is often undermined by:

- **Weak case law tradition** (lack of binding precedent)
- **Limited training of judges in human rights law**
- **Bureaucratic and political influence**

Although some progress has been made—such as the establishment of **Administrative Courts** and **e-court systems**—judicial independence remains a concern raised by international observers, including the **UN Human Rights Council.**

Additionally, the **Constitutional Court of Uzbekistan** has limited competence to handle individual complaints, unlike the ECJ or the ECtHR, which serve as major guarantors of civil rights in the EU.

Uzbekistan's civil rights framework includes **progressive constitutional guarantees** and **growing legislative support,** yet it falls short in implementing **mandatory mechanisms** that ensure actual

[4] Bekmuradov, K. (2021). "Human Rights in Uzbekistan: Between Constitutional Proclamation and Practical Realization." *Central Asia Legal Review*, 3(2), 45–62.

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protection, redress, and accountability. Compared to the EU, Uzbekistan lacks the institutional robustness and direct enforceability required to transform formal rights into practical realities.

Barriers to Implementation in Uzbekistan. Despite notable reforms, several structural and sociocultural barriers continue to hinder the full and effective implementation of mandatory civil rights protection mechanisms in Uzbekistan. These barriers must be carefully analyzed to ensure any attempt to transplant European models is adapted appropriately to local realities.

Institutional Weaknesses. Uzbekistan's institutions responsible for civil rights enforcement remain in a transitional state, which undermines the realization of binding legal protections.

- Limited independence of the judiciary restricts its ability to serve as an impartial arbiter of rights.
- The Human Rights Ombudsman lacks the enforcement powers of similar EU bodies and functions more as an advisory office.
- Administrative bodies, such as ministries and local hokimiyats, often lack clear mandates or training to uphold civil rights in their daily operations.
- Enforcement of court decisions remains inconsistent, particularly in rural areas.

Additionally, there is no constitutional mechanism equivalent to the ECJ or ECtHR through which individuals can systematically challenge the state's failure to protect rights.

Legal Culture and Public Awareness. Civil rights culture in Uzbekistan is still developing. Several factors hinder the public's capacity to understand and demand their rights effectively:

- Low legal literacy: Many citizens are unaware of their constitutional rights or how to invoke them.
- Limited civic engagement: NGOs and civil society actors face bureaucratic and political barriers to operating freely.
- Historical legacy of authoritarianism has shaped a legal culture where obedience to authority is valued over challenging state actions.

Without a strong bottom-up demand for civil rights, top-down reforms remain largely symbolic.

Harmonization with International Obligations. Uzbekistan has ratified key international human rights treaties, including the ICCPR, CEDAW, and CAT. However, domestic implementation lags due to:

- Lack of incorporation mechanisms: Treaties are not automatically applicable unless implemented through national law.
- Conflicting norms: Some domestic laws remain inconsistent with treaty obligations.
- Insufficient monitoring: Reporting to UN treaty bodies is irregular and often lacks civil society participation.

The absence of a clear legislative roadmap for harmonizing domestic law with international commitments further weakens legal coherence and effectiveness.

Recommendations. To enhance the implementation of mandatory civil rights protection in Uzbekistan, the following steps are recommended:

- Reform the judiciary to ensure independence, especially through merit-based appointments and transparent disciplinary procedures.
- Expand the mandate and resources of the Human Rights Ombudsman and consider creating specialized agencies (e.g., Data Protection Authority, Anti-Discrimination Commission).

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- Develop a Civil Rights and Liberties Code to consolidate fragmented provisions and align them with international norms and the EU Charter model.
- Integrate human rights and civil liberties courses into legal education curricula.
- Launch public awareness campaigns to promote knowledge of civil rights, targeting youth, women, and rural populations.
- Simplify the legal registration and operation of NGOs.
- Encourage public-private partnerships for rights monitoring, legal aid, and civic education.
- Establish formal dialogue platforms with the EU and international organizations to share best practices.
- Undertake legislative audits to evaluate and revise laws conflicting with international obligations.
- Introduce constitutional complaint procedures that allow individuals to bring human rights cases directly to the Constitutional Court, similar to the German or Spanish models.

Conclusion. The European Union's mandatory methods of civil rights protection offer valuable lessons for states like Uzbekistan that seek to modernize their legal systems in line with international standards. The EU's model is characterized by legal enforceability, institutional independence, and citizen accessibility.

Uzbekistan has made commendable efforts in constitutional reform and ratification of international treaties. However, implementation remains the greatest challenge. Institutional fragility, underdeveloped legal culture, and insufficient harmonization with international norms limit the transformation of rights from legal norms into lived realities.

By addressing these barriers through a holistic reform agenda—including institutional strengthening, legal codification, public engagement, and international cooperation—Uzbekistan can move closer to a rights-based governance model. Such alignment would not only improve domestic governance but also enhance Uzbekistan's international image and integration into global legal and political structures.