Taraqqiyot spektri
ILMIY JURNALI

Vol 2 № 5 2026

A Comparative Analysis of the Concept of Economic Crimes and Legal Liability in the Commercial Law of China and Uzbekistan

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Abstract: Under the Belt and Road Initiative, deepening economic ties between China and Uzbekistan have made legal compatibility in the field of economic crime a practical concern for commercial actors. This article compares the conceptual definitions, offence typologies and liability regimes governing economic crime in the commercial law of China and Uzbekistan. Using functionalist comparative law and normative analysis, it shows that the two systems perform equivalent functions but diverge significantly — most notably in corporate criminal liability and in the administrative precondition for criminal prosecution — while converging under shared obligations to the United Nations Convention against Corruption and the FATF standards. It argues that targeted harmonisation — in corporate criminal liability, protection against concurrent proceedings, and financial-crime thresholds — can reduce regulatory friction without sacrificing either state's policy autonomy.

Keywords: economic crime; commercial law; comparative law; legal liability; China; Uzbekistan; Belt and Road Initiative; corporate criminal liability; commercial compliance; UNCAC.

Xitoy va O‘zbekiston tijorat huquqida iqtisodiy jinoyatlar tushunchasi va yuridik javobgarlikning qiyosiy-huquqiy tahlili

Annotatsiya: «Bir kamar — bir yo‘l» tashabbusi doirasida Xitoy va O‘zbekiston o‘rtasidagi iqtisodiy aloqalarning chuqurlashuvi iqtisodiy jinoyatlar sohasidagi huquqiy moslikni tadbirkorlik sub’yektlari uchun amaliy masalaga aylantirdi. Maqolada Xitoy va O‘zbekiston tijorat huquqida iqtisodiy jinoyatni belgilovchi tushunchalar, jinoyat turkumlari va javobgarlik rejimlari qiyoslanadi. Funksional qiyosiy huquq va normativ tahlil asosida ko‘rsatiladiki, ikkala tizim o‘xshash vazifalarni bajaradi, biroq sezilarli darajada farqlanadi — ayniqsa yuridik shaxslarning jinoiy javobgarligi va jinoiy ta’qib uchun ma’muriy shart bo‘yicha, — shu bilan birga Korrupsiyaga qarshi BMT konvensiyasi va FATF standartlari doirasidagi umumiy majburiyatlar bo‘yicha yaqinlashadi. Maqolada ta’kidlanadiki, maqsadli uyg‘unlashtirish — yuridik shaxslarning jinoiy javobgarligi, parallel ish yuritishdan himoya va moliyaviy jinoyat chegaralari bo‘yicha — davlatlarning siyosiy mustaqilligiga putur yetkazmasdan huquqiy ziddiyatlarni kamaytirishi mumkin.

Kalit so‘zlar: iqtisodiy jinoyat; tijorat huquqi; qiyosiy huquq; yuridik javobgarlik; Xitoy; O‘zbekiston; «Bir kamar — bir yo‘l» tashabbusi; yuridik shaxslarning jinoiy javobgarligi; tijoriy komplayens; UNCAC.

Сравнительно-правовой анализ понятия экономических преступлений и юридической ответственности в торговом праве Китая и Узбекистана

Аннотация: В рамках инициативы «Один пояс — один путь» углубление экономических связей между Китаем и Узбекистаном превратило правовую совместимость в сфере экономических преступлений в практический вопрос для коммерческих субъектов. В статье сопоставляются концептуальные определения,

типологии преступлений и режимы ответственности, регулирующие экономическую преступность в торговом праве Китая и Узбекистана. На основе функционального сравнительного правоведения и нормативного анализа показано, что обе системы выполняют сходные функции, но существенно различаются — прежде всего в уголовной ответственности юридических лиц и в роли административной преюдиции, — сближаясь при этом в рамках общих обязательств по Конвенции ООН против коррупции и стандартам ФАТФ. Утверждается, что адресная гармонизация — в области уголовной ответственности юридических лиц, защиты от параллельных производств и пороговых значений финансовых преступлений — способна снизить правовые трения без ущерба для политической автономии каждого государства.

Ключевые слова: экономическое преступление; торговое право; сравнительное правоведение; юридическая ответственность; Китай; Узбекистан; инициатива «Один пояс — один путь»; уголовная ответственность юридических лиц; коммерческий комплаенс; UNCAC.

Introduction

Economic crime — the use of commercial or financial mechanisms to achieve unlawful gain or to harm market actors and public institutions — occupies an ambiguous space in legal systems that historically developed criminal law and commercial law as separate domains. In both China and Uzbekistan, the transition to market-oriented economies (China from the late 1970s, Uzbekistan after independence in 1991) generated new forms of commercially situated misconduct that existing penal codes were ill-equipped to address, producing bodies of law in which criminal, administrative and civil rules frequently overlap. The shared structural challenge is how to calibrate coercive state power against the risk of over-criminalisation that can suppress legitimate commercial activity.

The comparison carries practical as well as academic significance. Under the Belt and Road Initiative (BRI), bilateral trade and Chinese investment in Uzbekistan have grown rapidly, so that Chinese firms in Uzbekistan and Uzbek enterprises accessing Chinese capital must navigate two distinct but increasingly interactive legal environments; where one system criminalises what the other treats as an administrative matter, cross-border compliance costs rise (UNODC, 2024). Both states are parties to the United Nations Convention against Corruption (UNCAC, 2003), which sets minimum standards for criminalising bribery, embezzlement and money laundering (UNCAC, 2003, Arts. 15–23) and provides a shared reference point for assessing each system. Drawing on functionalist comparative law and normative analysis, this article compares the conceptual definition of economic crime, the principal offence categories, liability regimes, enforcement architecture and the directions in which targeted harmonisation could reduce regulatory friction without sacrificing either state's policy autonomy.

1. Defining Economic Crime in Commercial Law

"Economic crime" is not a unified statutory category in either system but a construct aggregating offences that arise from commercial relationships, target economic values and typically involve organisational complexity or abuse of position. Under the Criminal Law of the People's Republic of China, as amended in 2021 ("PRC Criminal Law 2021"), these offences are dispersed mainly across Chapter III ("Crimes of Undermining the Order of the Socialist Market Economy") and Chapter VIII ("Crimes of Corruption and Bribery"), a structure that frames economic crime partly as an offence against the state's regulatory authority rather than only against private actors (PRC Criminal Law 2021, Arts. 140–231, 382–396; SPC & SPP, 2023). The Criminal Code of the Republic of Uzbekistan (as amended to 2022, "Uzbek Criminal Code 2022") consolidates the principal offences — unlicensed entrepreneurship, fraudulent bankruptcy, monopolistic conduct, tax evasion and currency violations — in its chapter on crimes in the sphere of economic activity, integrated with the Law on Counteracting Corruption (2017) and the anti-money-laundering

framework (Uzbek Criminal Code 2022, Arts. 176–200; Ergashev, 2021). Functionally the two systems perform equivalent tasks; they differ mainly in where liability thresholds are set, how culpability attaches to legal persons and which institutions enforce.

2. Categories of Economic Offence: A Comparative Typology

Both systems organise economic offences into similar functional clusters — fraud, corruption, financial crime and market manipulation — even where statutory labels differ.

Fraud and commercial deception. Contract fraud is central in both systems. Article 224 of the PRC Criminal Law 2021 scales penalties up to life imprisonment for the largest amounts, whereas the Uzbek Criminal Code 2022 (Arts. 168 and 177) is markedly more lenient, rarely exceeding ten years absent aggravating circumstances — a divergence that reflects not only different deterrence philosophies but different assessments of how far civil remedies can compensate fraud victims (Posner, 2014). Both systems nonetheless satisfy UNCAC's private-sector criminalisation requirements (UNCAC, 2003, Arts. 21–22).

Corruption and bribery. China treats bribery of non-state commercial personnel as a distinct offence (Article 163), enforced by the Public Security Bureau's Economic Crime Investigation Department rather than the National Supervisory Commission, whose remit is limited to public officials — a distinction that matters acutely in joint ventures mixing state-linked and purely private actors. Uzbekistan, after its 2017 Anti-Corruption Law, likewise separates public and private bribery, though enforcement has concentrated on public officials (Yusupov, 2020).

Financial crime and money laundering. This is where convergence is greatest, driven by shared FATF obligations. China's Anti-Money Laundering Law (2006, revised 2024) and Uzbekistan's framework both impose customer due diligence, suspicious-transaction reporting and beneficial-ownership disclosure; recent FATF follow-up reports recorded progress in both states while noting residual gaps, and UNODC has flagged the

growing exposure of BRI corridor transactions to trade-based money laundering (FATF, 2023; FATF, 2024; UNODC, 2024).

Market manipulation and monopolistic conduct. Here the systems diverge most. The PRC Anti-Monopoly Law (amended 2022) combines administrative fines of up to 10% of annual turnover with possible criminal referral where deception accompanies monopolistic conduct (PRC Anti-Monopoly Law 2022, Arts. 55–60), whereas Uzbekistan's Law on Competition (2012, as amended 2022) remains essentially administrative, reserving criminal liability for deliberate manipulation causing significant harm (Law on Competition, 2022). The asymmetry can create compliance complications for Chinese firms operating in both markets.

3. Legal Liability Regimes

The allocation of liability across criminal, administrative and civil tracks is the most practically consequential difference. China operates a tripartite architecture in which the three tracks can run together: under the principle of concurrent liability (竞合), the Supreme People's Court and Supreme People's Procuratorate's 2023 interpretation gives the criminal track precedence and allows administrative fines to be credited against criminal penalties, while recent civil-procedure reforms expand victims' restitution through civil incidental proceedings (附带民事诉讼) linked to criminal cases (SPC & SPP, 2023). Crucially, China has imposed criminal liability on legal persons ("unit crimes", 单位犯罪) since 1997, using a dual model that punishes both the entity and responsible individuals.

Uzbekistan's structure reflects Soviet administrative-law traditions. The Code of Administrative Responsibility (1994, as substantially amended) provides extensive administrative sanctions that often precede or substitute for prosecution, and the doctrine of administrative precondition (administrativnaya preyuditsiya) routes escalation through a mandatory administrative stage that Chinese law does not replicate (Ergashev, 2021). Most importantly, Uzbek law still resists criminal liability for legal persons, relying on

administrative sanctions against entities and criminal prosecution of individuals. Although UNCAC Article 26 permits this liability to be criminal, civil or administrative — so the administrative route is not in itself non-compliant — the absence of corporate criminal liability creates a structural asymmetry in China–Uzbekistan joint ventures, where Chinese partners face corporate criminal exposure that their Uzbek counterparts do not (UNODC, 2024).

4. Enforcement and Cross-Border Cooperation

Enforcement architecture differs accordingly. In China, authority is divided among the Public Security Bureau's Economic Crime Investigation Department (private-sector criminal offences), the State Administration for Market Regulation (competition and market conduct), the National Financial Regulatory Administration (the financial sector, from 2023) and the National Supervisory Commission (public officials only), with judicial review available through administrative litigation (Liebman, 2011). In Uzbekistan, the Prosecutor General's Office supervises criminal investigation by the Ministry of Internal Affairs, while sectoral bodies — the Antimonopoly Committee, the State Tax Committee and the Central Bank — handle administrative enforcement, subject to procuratorial supervision of uneven effectiveness (Wachtel, 2018). Cross-border cooperation remains underdeveloped: the 1997 bilateral treaty on judicial assistance in civil and criminal matters (in force 1998) lacks the operational detail and information-sharing mechanisms of more modern instruments, and asset recovery under UNCAC Chapter V often founders on procedural incompatibilities, even as the 2024 China–Uzbekistan Joint Statement names law-enforcement cooperation a priority (SCO Secretariat, 2020; PRC–Uzbekistan Joint Statement, 2024; UNODC, 2024).

5. The Belt and Road Initiative, Convergence and Harmonisation

The BRI gives these differences practical weight. Chinese investment in Uzbekistan is concentrated in manufacturing sectors — textiles, chemicals and mineral processing —

that carry elevated risks of licensing fraud, customs manipulation and transfer-pricing irregularities, so the legal incompatibilities above arise in commercially significant transactions (FATF, 2023; UNODC, 2024). Firms face compliance requirements that do not map across the two systems, and the risk of concurrent proceedings for the same conduct — criminal in one state, administrative in the other — is not mitigated by any explicit ne bis in idem rule in the 1997 treaty or in SCO frameworks, raising transaction costs and inviting regulatory arbitrage (Trebilcock & Howse, 2013).

Beyond the bilateral relationship, both states face external pressure toward convergence, above all from the FATF mutual-evaluation regime, which has given them a shared vocabulary of beneficial ownership, due diligence and suspicious-activity reporting; transnational soft-law standards such as the Wolfsberg principles on correspondent banking add a further compliance layer for the banks that finance BRI projects (FATF, 2024; Sornarajah, 2021).

Three targeted reforms follow. First, introducing corporate criminal liability in Uzbekistan — one of the options expressly envisaged by UNCAC Article 26 — would remove the attribution asymmetry that currently exposes Uzbek joint-venture parties to lower accountability than their Chinese partners for the same misconduct. Second, an updated mutual legal-assistance protocol expressly addressing concurrent proceedings and ne bis in idem would reduce the risk of disproportionate cumulative sanctions. Third, harmonising the monetary thresholds that separate criminal from administrative liability would close the arbitrage gap that UNODC identifies in BRI corridor transactions (UNODC, 2024).

Conclusion

Both jurisdictions have built liability regimes capable of addressing commercially situated misconduct across criminal, administrative and civil registers, and international standards — UNCAC and the FATF recommendations above all — have converged their frameworks, especially in financial crime. Yet substantial divergences persist: in criminal

thresholds, in corporate versus individual responsibility, in the administrative precondition for prosecution and in enforcement architecture. As the bilateral economy deepens under the BRI, these incompatibilities impose real costs and weaken deterrence against genuinely harmful conduct. Targeted coordination — corporate criminal liability aligned with UNCAC Article 26, an operational mutual legal-assistance protocol and harmonised financial-crime thresholds — would reduce friction without requiring full convergence, which the two systems' institutional and developmental differences make neither realistic nor desirable. The comparative analysis is thus not only an academic exercise but an input into the legal architecture of the emerging Eurasian commercial order.

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