



LEGAL PROBLEMS OF JUDICIAL RECOVERY OF DAMAGE CAUSED BY ENVIRONMENTAL OFFENCES

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Abstract

This article examines the legal problems that arise when damage caused by environmental offences is recovered through the courts of the Republic of Uzbekistan. It analyses the relationship between the general civil-law principle of full compensation of harm and the specific features of environmental damage, in particular the difficulty of quantifying harm to natural resources, the allocation of the burden of proof, standing to sue, and the coordination between administrative liability and civil recovery. The mechanisms of the European Union and comparative practice on environmental liability are examined for contrast. The study employs formal-legal, comparative-legal and systemic-functional methods together with elements of legal modelling.

Keywords: environmental offence, damage compensation, civil liability, burden of proof, standing to sue, environmental liability, Uzbekistan.

Introduction

Judicial recovery of damage caused by environmental offences performs a function that is distinct from, though closely connected to, administrative and criminal liability for the same conduct. Whereas administrative fines and criminal penalties are directed at punishing and deterring the offender, an award of compensation is directed at restoring, so far as money can, the resource, the person or the public interest that has been harmed. Under the general rule of Uzbek civil law, a person whose right has been infringed may claim full compensation of the harm caused, unless the law or a contract provides for compensation in a smaller amount [2]. Applied to environmental harm, this general rule raises difficulties that are not present, or are far less pronounced, in ordinary property or personal-injury disputes.

The first difficulty concerns the object of compensation itself. Harm to soil, water, air or biological resources rarely has a market price in the way that a damaged vehicle or a destroyed crop does; its assessment depends on specialised calculation methodologies, on the availability of monitoring data taken before and



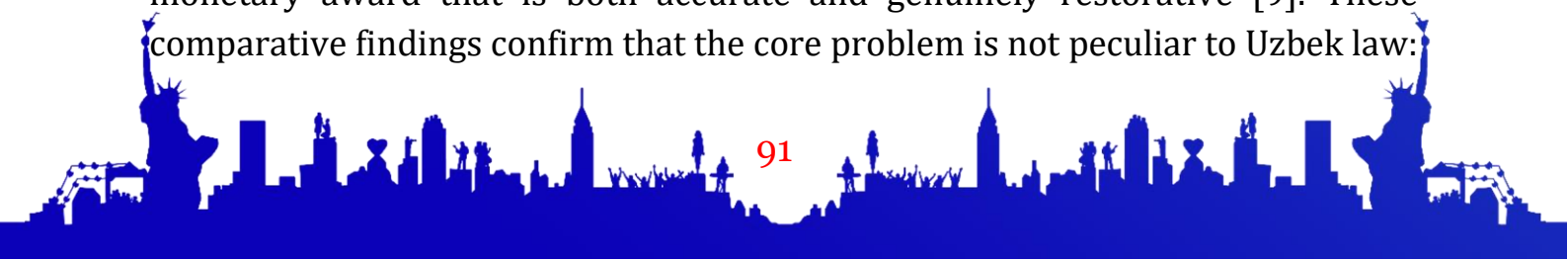


after the offence, and on assumptions about the natural capacity of the affected resource to recover over time. The second difficulty concerns the legal basis on which such calculation methodologies are approved and applied by a court, particularly where the methodology used by the environmental control body issuing the administrative act differs from that used by a court-appointed expert. The Law "On Ecological Control" empowers the authorised bodies to calculate and claim compensation for harm caused to the environment as a result of violations they detect [3], yet the same Law does not resolve how such a calculation is to be tested, and if necessary displaced, once the matter reaches a court.

A further set of problems concerns standing and the identity of the claimant. Where environmental harm damages private property, the owner has an obvious and direct interest in seeking compensation. Where the harm is diffuse - degradation of a water body, loss of biodiversity, damage to air quality - the interest is collective rather than individual, and Uzbek procedural law does not yet provide a developed mechanism of public interest litigation comparable to that available in some other jurisdictions, leaving the initiation of a compensation claim largely dependent on the authorised state body.

Finally, the relationship between ecological audit, which independently and voluntarily verifies an enterprise's compliance with environmental legislation without substituting for state ecological control [4], and judicial recovery of damage remains only loosely defined: a favourable audit conclusion does not preclude a claim for compensation, but its practical weight before a court, alongside monitoring data and the findings of state control, is not settled in either legislation or established judicial practice.

Comparative material illustrates that these difficulties are shared, in varying forms, by other legal systems. Within the European Union, environmental liability for the prevention and remedying of environmental damage rests on the polluter-pays principle and on the requirement that the operator bear the cost of the necessary preventive or remedial measures, an approach whose economic logic has been extensively examined in the law-and-economics literature on tort rules applied to pollution [8]. At the level of general international law, the International Court of Justice's approach to reparation for transboundary environmental harm has been criticised for awarding compensation that does not fully reflect the value of the ecological services lost, illustrating how difficult it remains, even at the highest judicial level, to translate ecological harm into a monetary award that is both accurate and genuinely restorative [9]. These comparative findings confirm that the core problem is not peculiar to Uzbek law:





it is the structural difficulty of adapting a compensation-based model of civil liability, designed around individually owned and priced assets, to harm inflicted on shared and often unpriced natural resources.

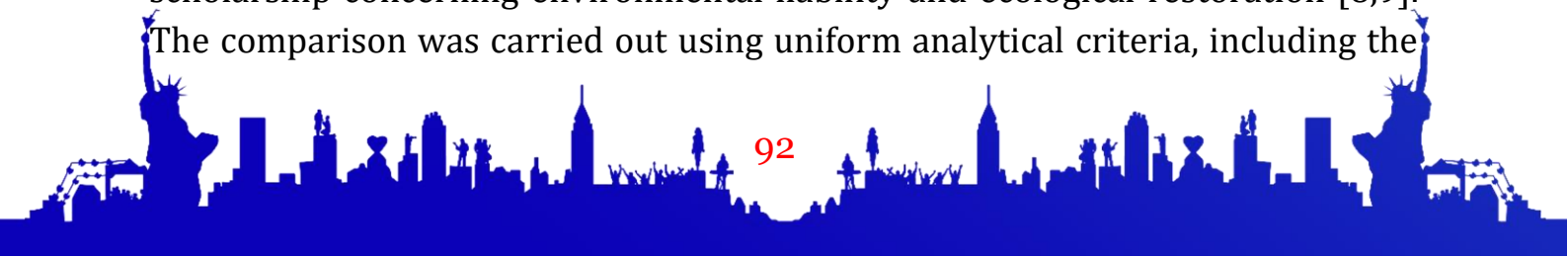
Methodology

The present study is comparative-legal in nature and examines the legal framework governing the judicial recovery of damage caused by environmental offences in the Republic of Uzbekistan through the perspective of civil liability, environmental protection, and comparative environmental law. The research evaluates the interaction between substantive legal norms, judicial procedures, environmental control mechanisms, and international approaches to environmental liability in order to identify existing legislative shortcomings and formulate recommendations for improving judicial practice.

The normative basis of the research consists of the Constitution of the Republic of Uzbekistan [1], the Civil Code of the Republic of Uzbekistan [2], the Law “On Ecological Control” [3], the Law “On Ecological Audit” [4], the Code of Administrative Court Proceedings of the Republic of Uzbekistan [5], and the Law “On Limiting Greenhouse Gas Emissions” [6]. In addition, the study examines the European Union Environmental Liability Directive (Directive 2004/35/EC) [7] together with leading scholarly works concerning environmental liability and judicial compensation [8,9]. These legal sources were analysed to determine the legislative basis for compensation of environmental damage, the powers of competent environmental authorities, judicial procedures for environmental disputes, and the legal principles governing environmental restoration.

The formal-legal method was applied to determine the legal content of the concepts of environmental damage, full compensation, environmental offence, burden of proof, causal relationship, and environmental damage assessment methodology. Particular attention was devoted to analysing the relationship between the general provisions of civil liability established by the Civil Code [2], the powers of environmental control authorities to identify and calculate environmental damage [3], the legal significance of ecological audits [4], judicial procedural guarantees governing environmental disputes [5], and the legislative methodology for monitoring greenhouse gas emissions [6].

The comparative-legal method was employed to compare the Uzbek model of judicial compensation with the environmental liability regime established under Directive 2004/35/EC [7] and with contemporary international scholarship concerning environmental liability and ecological restoration [8,9]. The comparison was carried out using uniform analytical criteria, including the





legal basis of liability, methods of environmental damage assessment, allocation of the burden of proof, procedural standing, judicial evaluation of scientific evidence, and enforcement mechanisms ensuring restoration of damaged natural resources.

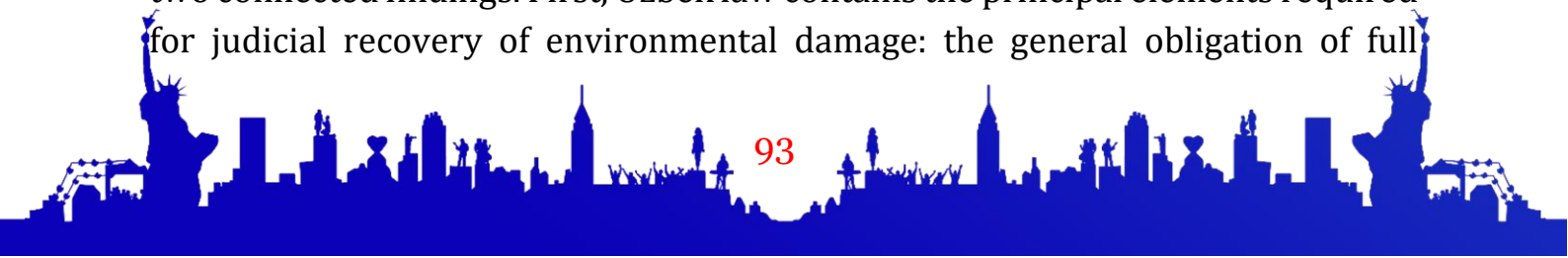
The systemic-functional method was used to evaluate the interaction between environmental control authorities [3], ecological audit institutions [4], judicial procedures [5], and sector-specific environmental regulation [6] within the overall system of environmental protection. Particular attention was paid to the coordination between administrative liability, civil compensation, ecological monitoring, expert examination, and judicial review in order to determine whether these legal mechanisms operate as a coherent environmental protection system or function independently of one another.

Finally, the legal modelling method was employed to develop a conceptual model for improving judicial recovery of environmental damage. Based on the comparative legal analysis, the identified legal problems were classified into four interrelated categories-substantive, evidentiary, procedural, and enforcement-related-which constitute the analytical structure of the Results section. The proposed model integrates transparent environmental damage assessment, scientifically reliable evidentiary standards, broader procedural guarantees, and restoration-oriented enforcement into a unified judicial framework. Rather than introducing a new form of environmental liability, the proposed model seeks to improve the coordination of existing legal institutions in order to enhance consistency of judicial practice, strengthen legal certainty, and ensure that compensation awarded by courts contributes directly to the restoration of damaged natural resources [7–9].

To supplement the doctrinal and comparative analysis, official enforcement statistics published by the State Environmental Control Inspectorate were examined descriptively. The indicators were used to assess the practical scale of environmental damage calculation, compensation claims, judicial referral, monetary recovery, and enforcement. Because the official report combines related but distinct enforcement streams, the monetary categories were treated as non-cumulative aggregates rather than as consecutive stages of a single recovery process [10].

Results

The combined formal-legal, systemic, and comparative analysis produces two connected findings. First, Uzbek law contains the principal elements required for judicial recovery of environmental damage: the general obligation of full

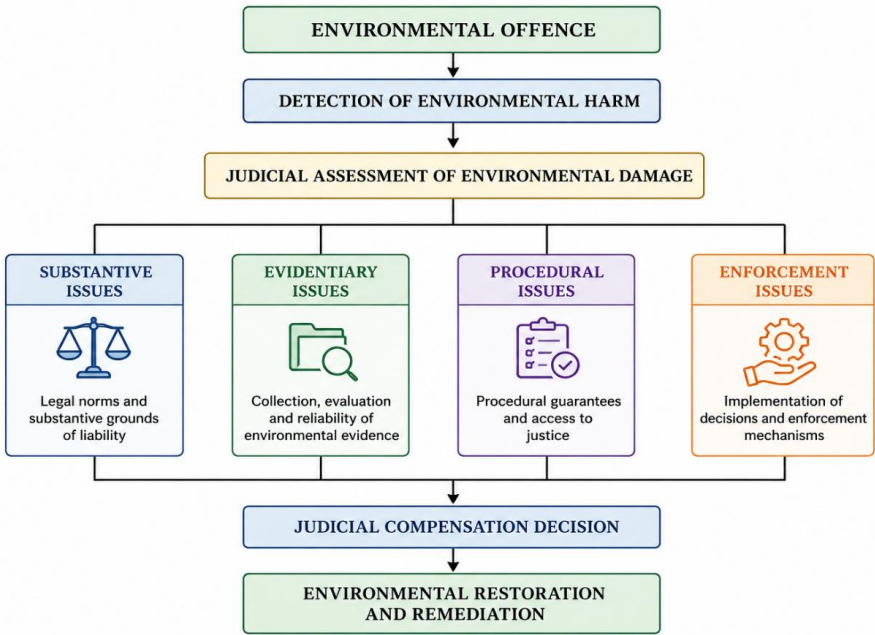




compensation, powers of environmental control bodies to detect violations and calculate harm, procedural rules governing judicial review and evidence, and enforcement measures [2,3,5]. Second, these elements do not yet operate as a single legally integrated recovery process. No reviewed instrument comprehensively links environmental valuation, evidentiary verification, standing, adjudication, collection, and the subsequent restoration of the damaged natural resource.

The identified weaknesses can be organised into four interrelated categories: substantive, evidentiary, procedural, and enforcement-related. The categories are analytically distinct, but they interact in practice: an uncertain valuation methodology affects the quality of evidence; evidentiary uncertainty influences the outcome of proceedings; procedural restrictions determine whether a claim reaches a court; and enforcement rules determine whether a monetary award results in ecological restoration.

Figure 1. Analytical structure of judicial recovery of environmental damage



Source: Developed by the author on the basis of the doctrinal and comparative analysis conducted in this study.

Figure 1 presents judicial recovery as a connected legal mechanism rather than as an isolated civil-law remedy. Detection and initial assessment occur within environmental administration, whereas the legal determination of liability and the enforceable amount remains a judicial function. The final stage must be evaluated not only by whether money is collected, but also by whether the

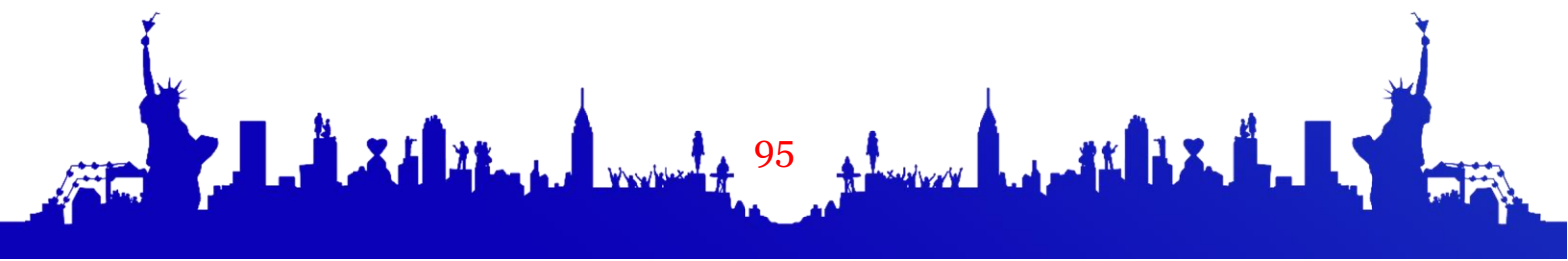




recovered amount is legally and institutionally connected to remediation of the affected environmental resource.

Table 1. Classification of legal problems affecting judicial recovery of environmental damage

Category	Nature of legal problem	Manifestation in judicial practice	Legal consequence	Recommended improvement
Substantive	Lack of a unified methodology for environmental damage valuation	Different calculation methods are applied by environmental authorities and judicial experts	Courts may award substantially different compensation for similar ecological harm	Adoption of harmonised statutory methodologies for environmental damage assessment
Evidentiary	Absence of uniform standards governing environmental evidence	Administrative calculations and expert reports often produce conflicting results	Judicial decisions depend largely upon the evidentiary approach preferred by the court	Establish transparent criteria for evaluating scientific environmental evidence
Procedural	Restricted standing for protection of collective environmental interests	Diffuse environmental harm frequently remains dependent upon action by authorised state bodies	Public ecological interests may remain without effective judicial protection	Expand procedural standing for environmental public-interest litigation





Category	Nature of legal problem	Manifestation in judicial practice	Legal consequence	Recommended improvement
Enforcement	Weak legal connection between compensation and ecological restoration	Awarded compensation frequently enters general public funds without direct remediation obligations	Financial recovery does not necessarily restore damaged ecosystems	Introduce legally binding restoration-oriented enforcement mechanisms

Source: Compiled by the author on the basis of national legislation and comparative environmental-liability scholarship [2–9].

Official administrative data confirm the practical scale of the problem. For 2023–2024 and the first five months of 2025, the State Environmental Control Inspectorate reported 110,941 persons who had violated environmental legislation, UZS 115 billion in administrative fines, UZS 32 billion in environmental-damage claims, and UZS 66 billion in funds recovered. In a related inspection stream covering 5,439 business entities, 3,433 violations were identified and administrative protocols concerning 1,738 officials were submitted to courts. The Inspectorate also calculated UZS 322.3 billion in environmental damage and UZS 60.3 billion in additional compensation for pollution, while 245 enterprises were temporarily suspended until identified violations were remedied [10].

To preserve comparability of units, Figure 2 presents only the monetary indicators contained in the official report. It distinguishes damage assessment and compensation claims from administrative fines and reported recoveries, thereby reflecting the legal separation between compensatory and punitive financial measures.

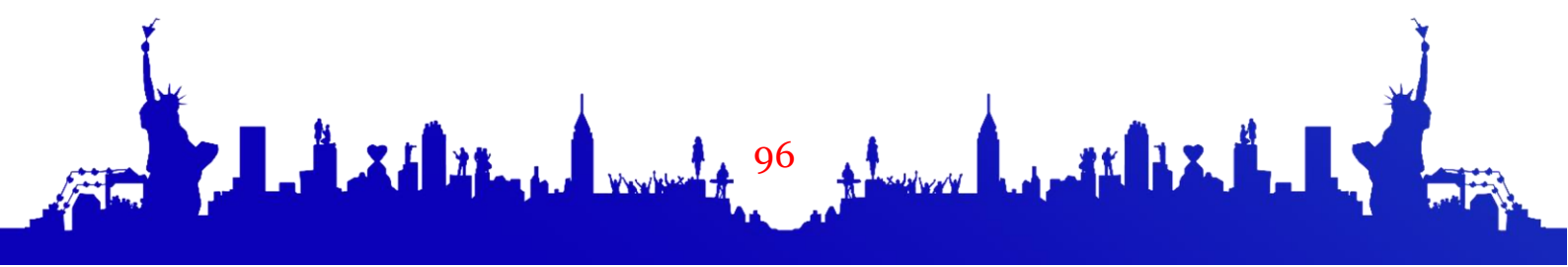
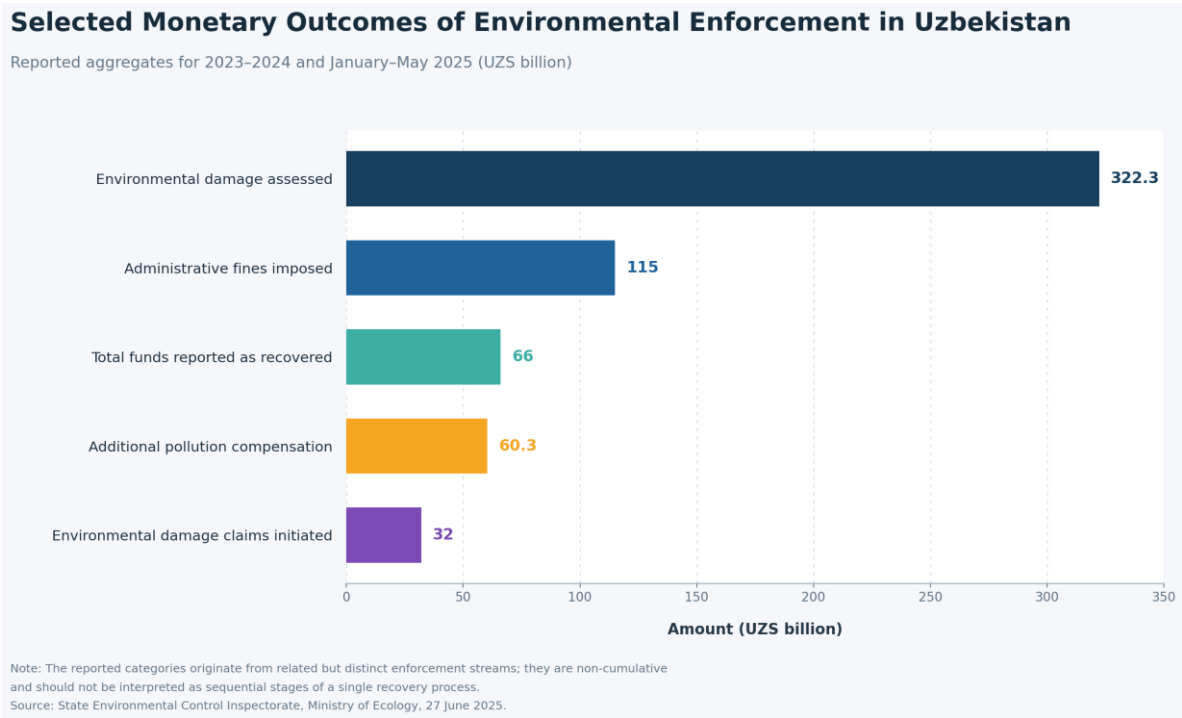




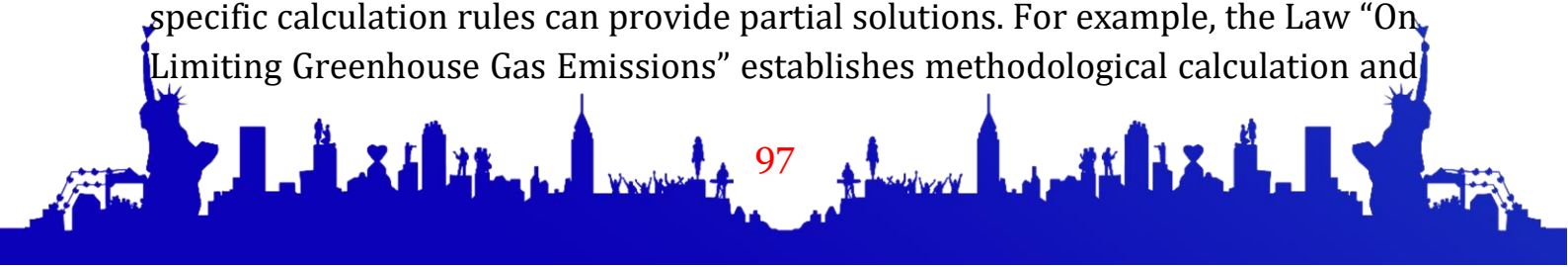
Figure 2. Selected Monetary Outcomes of Environmental Enforcement in Uzbekistan, 2023–May 2025



Source: Compiled by the author from official data published by the State Environmental Control Inspectorate [10].

The monetary indicators in Figure 2 must not be interpreted as a recovery funnel or used to calculate a recovery rate. The official release combines related but distinct categories and does not specify how the UZS 66 billion reported as recovered is divided between administrative fines, environmental-damage payments, earlier receivables, or payments made following judicial decisions. It also does not trace whether recovered amounts were subsequently directed to restoration. The analytically significant result is therefore not the numerical difference between UZS 322.3 billion assessed and UZS 66 billion recovered, but the absence of a case-level reporting chain connecting assessment, claim, judgment, collection, and ecological remediation. This statistical limitation confirms the enforcement and transparency problem identified through the legal analysis.

At the substantive level, the reviewed legislation does not contain a single cross-sector methodology for valuing all forms of environmental harm. The Civil Code establishes full compensation as the governing rule [2], but that rule does not determine how losses to biodiversity, ecosystem functions, water quality, soil, or atmospheric resources are to be translated into a recoverable amount. Sector-specific calculation rules can provide partial solutions. For example, the Law “On Limiting Greenhouse Gas Emissions” establishes methodological calculation and





independent verification requirements [6]. Such mechanisms demonstrate the value of standardised measurement, but they cannot substitute for a harmonised methodology that distinguishes primary restoration costs, interim ecological losses, and residual damage.

At the evidentiary level, environmental-control calculations and court-appointed expert opinions perform different legal functions, yet the reviewed legislation establishes no express hierarchy between them [3,5]. Automatic priority for an administrative calculation would weaken judicial evaluation, while automatic preference for an expert conclusion could disregard monitoring data collected closest to the harmful event. The more coherent solution is a uniform test requiring disclosure of the calculation method, baseline data, causal assumptions, uncertainty margins, restoration scenario, and the possibility of independent verification and adversarial challenge. This finding is consistent with scholarship emphasising methodological transparency rather than institutional status as the basis of reliable environmental valuation [8].

At the procedural level, diffuse harm to public environmental resources remains largely dependent upon action by authorised state bodies. The submission of administrative protocols concerning 1,738 officials to courts illustrates the practical importance of inter-institutional referral [10], but administrative liability does not itself replace a claim for restoration or compensation. Procedural rules should therefore distinguish and coordinate punitive sanctions, compensation claims, and restoration orders, prevent double counting of the same loss, and ensure that collective environmental interests can be represented where no individual owner can demonstrate exclusive personal damage.

At the enforcement level, the decisive issue is traceability. A report that records the amount recovered does not by itself disclose whether the payment followed a judicial judgment, an administrative order, or voluntary compliance, nor whether it financed remediation. Effective recovery therefore requires a case-based information system recording at least the initial assessment, legal basis of the claim, judicial outcome, amount collected, recipient fund, restoration measure, implementation deadline, and verified ecological result. Without this link, financial recovery may satisfy a formal payment obligation without restoring the damaged ecosystem.

The comparative analysis supports a restoration-oriented model. Directive 2004/35/EC connects the polluter-pays principle with preventive and remedial measures rather than treating monetary payment as the exclusive endpoint [7].





Scholarship likewise shows that environmental liability is most effective when valuation methods are transparent and remedies respond to ecological loss [8,9]. On that basis, the proposed Uzbek model should connect six stages—detection, valuation, claim, adjudication, collection, and verified restoration—while preserving judicial independence at the adjudicative stage. This integrated structure would not create a new form of liability; it would coordinate existing civil, administrative, evidentiary, and enforcement institutions around the restorative purpose of environmental compensation.

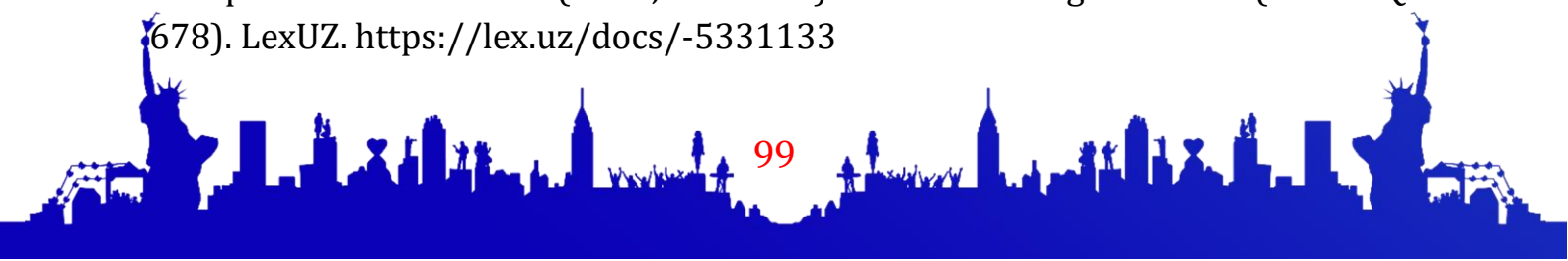
Conclusion

Judicial recovery of damage caused by environmental offences in the Republic of Uzbekistan rests on a sound general principle of full compensation, but its practical operation is constrained by substantive difficulties in quantifying harm to natural resources, evidentiary uncertainty as to the weight of competing calculation methodologies, procedural limits on standing for diffuse harm, and an enforcement stage that does not reliably connect the sums recovered with actual restoration.

Comparative and international experience confirms that these difficulties are inherent in adapting compensation-based civil liability to environmental harm, rather than being specific to any single legal system, and that they are best addressed through transparency of method rather than through a rigid priority rule favouring either administrative or expert calculations. The criteria proposed in this article — disclosure and contestability of methodology, reasoned resolution of divergent calculations, separation of compensation from punitive sanctions, broadened standing for diffuse harm, and a traceable link between recovered sums and remediation — offer a basis on which judicial practice in this field could develop with greater consistency and closer alignment with the restorative purpose that compensation for environmental harm is intended to serve.

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