ARTICLE 24 OF THE LAW 'ON ELECTRONIC COMMERCE' AS A NORMATIVE PLACEHOLDER: THE NEED FOR STATUTORY REGULATION OF THE ESCROW MECHANISM IN UZBEKISTAN

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The Law of the Republic of Uzbekistan "On Electronic Commerce" of 29 September 2022 No ЗРУ – 792 marks the most ambitious legislative consolidation of digital trade regulation in the country's history. Yet Article 24 of this Law contains a single, isolated reference to a "system of deposit of monetary funds" as a permissible mechanism of settlement in electronic commerce[1] - a reference that, in the absence of any developed regulation of its content, operates as a normative placeholder rather than as a functioning legal instrument. The provision does not specify the contractual structure of the deposit relation, the rights and obligations of the parties, the legal status of the depositary, or the conditions for the release of the funds. Although the legislator has signaled the desirability of a payment – guarantee mechanism, the legal instruments necessary for its operation have not yet been provided.

Keywords: escrow, electronic commerce, payment guarantee, Article 24, conditional deposit, civil law of Uzbekistan, comparative law.

Comparative analysis discloses the depth of this gap. Articles 860.7 to 860.10 of the Civil Code of the Russian Federation, supplemented by chapter 47.1 (articles 926.1 to 926.8) on conditional deposit, contain a fully elaborated regulation of escrow: the contract is defined; strict limitations are placed on the disposal of the deposited funds; a ten-day default period is prescribed for their release; and the funds are immunized from arrest, suspension or set – off against the obligations of the depositor or the beneficiary towards third parties[2]. The Chinese E – Commerce Law of 31 August 2018, in articles 53 and 58, takes a complementary approach: rather than legislating a tripartite contractual construction within the Civil Code, it imposes specific duties on platform

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[1] Закон Республики Узбекистан от 29 сентября 2022 года № ЗРУ – 792 «Об электронной коммерции», статья 24 [Электронный ресурс].

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[2] Гражданский кодекс Российской Федерации (часть вторая), статьи 860.7 – 860.10 (счёт эскроу) и глава 47.1, статьи 926.1 – 926.8 (условное депонирование) [Электронный ресурс].

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operators in respect of the funds transferred by buyers, requiring the operator to retain the funds in an identifiable account until the conditions for their release have been satisfied[3]. Both approaches address the same structural problem: the temporal asymmetry between payment and performance in online transactions, by which the buyer is required to transfer the funds before the seller dispatches the goods.

The introduction of the escrow mechanism into the civil law of the Republic of Uzbekistan does not require the construction of a sui generis legal institute. The contract concluded in electronic commerce remains, in its substance, an ordinary contract of sale, contract for performance of works or contract for rendering of services in the meaning of the Civil Code; the technological medium does not transform the substance of the underlying obligations. The escrow construction operates as a contractual configuration superimposed upon this classical bilateral obligation, introducing a third party – the escrow agent – equidistant from the depositor and the beneficiary, whose function is to receive, hold and release the deposited funds upon the occurrence of agreed conditions. This integration would not require a structural revision of the law of obligations but a careful insertion of a new contractual mechanism into an already existing legal architecture, by analogy with the reception of other modern contractual constructions such as franchising, factoring or trust management.

On the basis of this analysis, the present author advances four concrete proposals de lege ferenda.

First, Article 24 of the Law of 2022 should be amended to articulate the substantive content of the system of deposit of monetary funds as a tripartite contractual relation, by analogy with the Russian construction of the escrow account. The amendment should define the parties of the relation (depositor, beneficiary, escrow agent), the conditions for the release of the funds, the time limits within which the release must occur, and the legal consequences of the failure of either side of the underlying obligation.

Secondly, the Civil Code of the Republic of Uzbekistan should be supplemented by a new chapter dedicated to escrow agreements, structured along the lines of articles 860.7 to 860.10 of the Russian Civil Code, but adapted to the specific institutional environment of the Uzbek banking sector. The chapter should specify the legal status of the escrow agent, including the requirement that

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[3] E-Commerce Law of the People's Republic of China, adopted on 31 August 2018 (in force as of 1 January 2019), Articles 53, 58 [Electronic resource].

URL: http://www.npc.gov.cn/zgrdw/englishnpc/Law/2019-09/26/content_2098131.htm the agent be either a licensed banking institution or a professional escrow operator authorized by the Central Bank of the Republic of Uzbekistan.

Thirdly, the Law "On Payments and Payment Systems" of 1 November 2019 No ЗРУ-578[4] should be amended to integrate the escrow mechanism into the institutional architecture of the national payment system, ensuring the segregation of escrow funds from the assets of the agent and their immunity from the agent's ordinary commercial obligations.

Fourthly, and looking to the longer term, consideration should be given to the development of a regulatory framework for smart – contract – based escrow, recognizing the technical possibility of constructing payment-guarantee mechanisms without a trusted intermediary, while ensuring that such mechanisms operate within an established framework of statutory regulation and judicial enforcement.

The escrow mechanism, properly understood, is at once an innovation and a restoration: it innovates by introducing a tripartite contractual configuration unfamiliar to the classical Uzbek law of obligations, and it restores the synallagmatic balance of the contract of sale that the technological mediation of digital trade has disturbed. Its careful introduction into the Uzbek civil law system would represent the natural completion of an architecture of electronic commerce regulation that has, for nearly a decade, been moving in this direction without taking the final and decisive step.

[4]Закон Республики Узбекистан от 1 ноября 2019 года № ЗРУ – 578 «О платежах и платежных системах», статьи 4, 13 –17 [Электронный ресурс].

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