



## **World Conference on Social Sciences, Law and Public Policy**

Hosted Online from Toronto, Canada

Date: 26<sup>th</sup> January, 2026

Website: <https://econferencia.com>

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### **COMPARATIVE LEGAL ANALYSIS OF THE CIS MINSK (1993) AND CHISINAU (2002) CONVENTIONS ON LEGAL ASSISTANCE**

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#### **Abstract**

The 1993 Minsk Convention and the 2002 Chisinau Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters form the principal treaty framework for cooperation among the CIS member states. Through these mechanisms, service of documents, execution of procedural requests, taking of evidence, and the recognition and enforcement of judicial acts in cases involving a foreign element are ensured.

The Minsk Convention of 22 January 1993 set out the basic rules for sending and executing requests, issues of language and costs, as well as the grounds for refusing legal assistance [1]. Its practical value lies in its universality: a single framework applies to civil, family and criminal matters, ensuring predictability for courts and other competent authorities.

The Protocol of 28 March 1997 strengthened and clarified certain provisions of the Minsk Convention, increasing procedural certainty and thereby reducing the risk of formal returns of requests [2]. From a comparative perspective, the Protocol may be viewed as a response to the first years of the Convention’s operation, when practice revealed the need to specify a number of rules.

The Chisinau Convention of 7 October 2002 preserved the substantive core of the Minsk regime, but offered a more modern and “procedure-rich” architecture of cooperation [3]. It is aimed at speeding up interaction, improving the



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manageability of procedures and adapting legal assistance to new challenges, including cross-border crime and the growing number of cases with an international element.

One of the most practical innovations of the Chisinau Convention is a more detailed framework for communications between competent authorities. In addition to central authorities, contacts may be carried out through territorial and other authorized bodies, about which the state notifies the depositary [3]. This reduces the number of “intermediate links” and helps execute requests more quickly.

Procedural safeguards are noticeably strengthened in the Chisinau Convention: it provides for a confidentiality regime for information and materials obtained while executing requests, and allows additional confidentiality conditions to be agreed [3]. Grounds for refusal of legal assistance are formulated through criteria of sovereignty, security and contradiction to the law of the requested state, which makes it possible to manage risks predictably when exchanging sensitive information.

In the civil and family law blocks, both conventions seek to ensure that procedural actions “cross borders” with minimal loss of time and evidentiary value. For participants in cross-border relations (family disputes, alimony, inheritance, contractual conflicts, debt recovery), it is critical that documents are served properly and that evidence can be obtained in another jurisdiction.

The practical purpose of these mechanisms is to ensure the actual enforceability of judicial acts outside the state of issuance. The Minsk Convention provides the basic treaty foundation for the recognition and enforcement of decisions, whereas the Chisinau Convention makes procedural frameworks more “technological” and coordinated, which typically reduces the likelihood of procedural errors when seeking enforcement [1], [3].



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In criminal-law cooperation, the Chisinau Convention demonstrates an expanded toolkit. It provides for the possibility of establishing joint investigative-operational teams, allowing a shift from fragmented requests to a coordinated investigation model in complex cross-border cases [3].

In addition, the Chisinau Convention allows the use of videoconferencing when carrying out certain procedural actions by mutual consent of the competent authorities [3]. In practice, this accelerates the taking of testimony and other information, reduces costs of escort and travel, and also lowers the risk of actions being disrupted due to logistical constraints.

Particular attention should be paid to the asset-oriented component of the Chisinau Convention: it expressly provides for legal assistance in tracing, arresting and seizing property, funds and valuables obtained by criminal means, as well as proceeds of criminal activity [3]. This enhances the effectiveness of cooperation in terms of asset recovery and strengthens the compensatory function of justice.

For practitioners, the link between “interim measures - subsequent enforcement” is also important: the sooner property is secured, the higher the likelihood of real compensation for damage and the execution of property-related sanctions. In this sense, modernizing the treaty base affects not only the speed of interaction, but also the overall effectiveness of legal assistance.

The key difference between the two regimes is linked not only to content, but also to their relationship. The Chisinau Convention establishes that, between states for which it is in force, the 1993 Minsk Convention and the 1997 Protocol cease to apply; at the same time, the Minsk Convention and the Protocol continue to be applied in relations with states for which the Chisinau Convention has not yet entered into force [3]. Therefore, the question of the applicable treaty is decided “by pairs of states” and by specific dates.



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A practical rule for choosing the basis for cooperation can be stated briefly: if the Chisinau Convention has entered into force for both states, it applies and the Minsk Convention is not used between them; if at least one of the states is not bound by the Chisinau Convention, the Minsk Convention (taking the Protocol into account) applies [1]-[3]. An error at this stage usually leads to the return of materials and significant delays.

The Republic of Uzbekistan acceded to the Chisinau Convention by Law No. ZRU-554 of 26 August 2019 [4], and the Convention entered into force for Uzbekistan on 12 July 2020 [5]. This means that in Uzbekistan's cooperation with states where the Chisinau Convention is also in force, the "Chisinau" regime applies, while in relations with states not bound by the Chisinau Convention, the Minsk regime remains applicable.

For the Russian Federation, according to the official publication, the Chisinau Convention entered into force on 28 June 2023 [6]. Public clarifications by the Ministry of Foreign Affairs of the Russian Federation also drew attention to the consequences of entry into force and the termination of application of the Minsk Convention in relations with states parties to the Chisinau Convention [7]. As a result, after that date, in Russia's cooperation with states where the Chisinau Convention is already in force, it becomes the applicable treaty basis.

Practice shows that even when the correct convention basis is chosen, the outcome depends on correctly addressing the request and observing internal procedures. Therefore, in law enforcement practice it is important to take into account national acts that may clarify the powers of competent authorities and the procedure for interaction in the field of international legal assistance (including lists of authorized bodies) [10].

Overall, the 1993 Minsk Convention (with the 1997 Protocol) represents a fundamental and widely applicable framework, while the 2002 Chisinau



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Convention is a more modern and procedurally developed regime. The main practical risk is linked to an error in determining the applicable treaty: an incorrect reference to the convention leads to the return of requests and delays. Therefore, when preparing materials on international legal assistance, it is necessary to verify the parties' participation status and the date of entry into force of the relevant convention, after which the correct regime and the addressee of the request should be chosen [1]-[3].

### **References**

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