

TOPICAL LEGAL ISSUES OF ENSURING RISK-BASED MANAGEMENT IN THE PREVENTION OF OFFENSES

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Abstract. This thesis examines the legal problems of introducing and safeguarding risk-based management in offense-prevention activity. It traces the historical necessity of moving from uniform, blanket preventive control toward differentiated, risk-proportionate governance, reviews the principal scholarly contributions that shaped the concept of risk-based regulation and risk-based criminal justice, analyses the international legal instruments that currently govern the assessment and management of risk in crime prevention, evaluates the national risk-based model of the Republic of Uzbekistan against these benchmarks, and proposes concrete legislative and institutional measures.

Keywords: risk-based management, offense prevention, risk assessment, actuarial justice, risk-need-responsivity, Council of Europe probation rules, Artificial Intelligence Act, preventive registration, mahalla.

Preventive activity directed at offenses has always had to solve a distributional problem: given finite institutional capacity, which persons, places or programmes should receive priority attention, and on what legal basis? For most of the twentieth century, national systems answered this question through uniform categorical rules (blanket registration of released prisoners, universal patrol coverage, undifferentiated administrative supervision) rather than through a differentiated assessment of the actual probability and gravity of future harm. Risk-based management inverts this logic: it requires that the intensity, form and duration of a preventive measure be calibrated to a documented assessment of risk rather than to a fixed legal category. That shift has already been accepted in principle by the United Nations Guidelines for the Prevention of Crime, which insist that prevention strategies be grounded in a reliable and continuously updated knowledge base rather than in undifferentiated coercion (United Nations Economic and Social Council [ECOSOC], 2002). It is precisely this shift that raises the acute legal questions examined in this thesis: what methodology may lawfully be used to classify a person or place as “high risk”, what procedural safeguards must accompany that classification, and who is legally accountable when the classification is wrong. These questions have become still more pressing as risk-based management has begun to rely on statistical instruments and, increasingly, on automated or algorithmically assisted tools, a development that transforms what was once an internal administrative practice into a matter of fundamental-rights regulation.

The historical necessity of studying this problem can be traced through two independent but converging intellectual movements. The first is the general theory of risk-based regulation that emerged in administrative and regulatory law from the 1990s onward, as regulators in fields such as financial supervision, food safety and environmental protection began to reallocate their limited

inspection and enforcement resources according to assessed risk rather than uniform coverage. Black (2010) observed that this reallocation could be understood in at least three different ways: as a technique for setting standards of conduct on the basis of risk assessment, as a means of tailoring regulatory intervention to be more effective rather than merely more efficient, and as an institutional exercise in which risk is conceived as a threat to the regulator's own objectives. Her earlier study of the United Kingdom's experience showed that the emergence of risk-based regulation was accompanied by a parallel emergence of a new public risk management within government itself, in which the very question of how much risk a regulator should tolerate became a legally consequential decision rather than a purely technical one (Black, 2005). Baldwin and Black (2016) later warned that risk-based regulators, in practice, tend to prioritise low-probability but high-impact risks in a manner that can distort resource allocation away from more frequent but less dramatic harms, a finding directly relevant to offense prevention, where the temptation to concentrate resources on rare violent or high-profile offenses can leave common, high-volume offending under-addressed.

The second movement is specific to criminal justice. It is best captured by Beck's (1992) sociological diagnosis of the contemporary risk society, in which the management of manufactured, statistically distributed risk displaces the management of scarcity as the organising problem of modern institutions, and by the closely related account of a new penology in criminal justice offered by Feeley and Simon (1992). They argued that late-twentieth-century corrections increasingly abandoned the individualised, clinical language of diagnosis and treatment in favour of an actuarial language concerned with identifying, classifying and managing groups of offenders sorted by levels of dangerousness, so that the object of criminal justice management became the aggregate risk

presented by a population rather than the rehabilitation of any single offender. In a companion study, Feeley and Simon (1994) termed this shift actuarial justice, describing an emerging criminal law organised around statistical prediction and the efficient control of classified risk groups rather than around individual culpability. This scholarship supplies the conceptual vocabulary that any legal analysis of risk-based prevention must use, and it also supplies its central warning: an actuarial, aggregate-level logic of risk management sits uneasily with a legal tradition, inherited from classical criminal law, that insists on individualised justice, proportionality, and the presumption of innocence.

Criminological scholarship supplied the methodological content that made risk-based management operational rather than merely conceptual. The most influential model is the risk-need-responsivity (RNR) framework, first formalised by Andrews, Bonta and Hoge (1990), whose foundational article proposed that the intensity of correctional intervention be matched to an offender's assessed risk of reoffending, that treatment target the specific criminogenic needs empirically associated with that risk, and that the mode of intervention be adapted to the offender's individual learning style and capacity. The later synthesis prepared for Public Safety Canada formalised these three principles (risk, need and responsivity) as the dominant paradigm for offender assessment internationally, and documented the progression from early clinical judgment through statistically validated actuarial instruments to what the authors termed fourth-generation risk-assessment tools, which integrate ongoing case management with a broad set of dynamic risk factors (Bonta & Andrews, 2007). Andrews, Bonta and Wormith (2011) subsequently defended that genealogy against alternative rehabilitative models precisely on the ground that only a validated, empirically grounded risk instrument, and not clinical intuition or a rehabilitative ideology alone, can reliably predict reoffending and therefore

justify the differential allocation of scarce supervisory resources. For the legal analysis of risk-based prevention, the RNR literature establishes an indispensable minimum standard: a risk classification that determines the intensity of a preventive or supervisory measure is legally defensible only if it rests on a validated instrument whose predictive accuracy has itself been empirically tested, and not on undocumented administrative judgment.

These theoretical and methodological foundations have, over the past fifteen years, been translated into a coherent body of international legal instruments that impose specific legal conditions on the use of risk assessment in prevention and supervision. The Council of Europe Probation Rules require that any measure restricting an offender's rights be no greater than is required by the seriousness of the offence or by a properly assessed risk of reoffending, that assessment involve a systematic and thorough consideration of the individual case including risks, positive factors and needs, and that any intervention prior to a final finding of guilt respect the presumption of innocence and require the offender's informed consent (Council of Europe, 2010), thereby embedding the proportionality principle directly into the legal definition of risk-based supervision. The Council of Europe's (2021) more recent recommendation on the assessment, management and reintegration of persons accused or convicted of a sexual offence goes further in operational detail, requiring that risk assessment be targeted and individualised and that it feed into concrete treatment and intervention plans rather than functioning as a static administrative label. Most significantly for the legal safeguarding of increasingly technology-assisted risk classification, the Council of Europe's (2024) recommendation on the ethical and organisational aspects of artificial intelligence in prison and probation services provides that the results of any risk assessment may be used only for risk management purposes, that decisions

derived from such assessment must never be automated but must be taken by appropriately qualified professionals who retain final responsibility, and that managerial use of assessment data must not violate the rights of staff or offenders or produce discrimination or unfairness. That instrument is, in effect, the first international codification of the principle that a human decision-maker, and not an algorithm, must remain legally responsible for any consequence attached to a risk score.

The European Union has meanwhile embedded an equivalent, and in some respects more stringent, requirement directly into a binding regulatory instrument. The Artificial Intelligence Act (2024) adopts a tiered, risk-based model of regulation itself, classifying AI systems into prohibited, high-risk, limited-risk and minimal-risk categories and imposing mandatory conformity assessment, technical documentation, data-governance and human-oversight obligations specifically on high-risk systems. Annex III of the Act expressly designates as high-risk any AI system used by or on behalf of law-enforcement authorities to assess the risk of a natural person becoming a victim of a criminal offense, alongside AI systems used to evaluate the risk of offending, polygraph-type reliability tools, and systems used to profile individuals in the course of detecting, investigating or prosecuting crime (Artificial Intelligence Act, 2024, Annex III). Read together with the Council of Europe's (2010, 2024) probation-service recommendations, the Artificial Intelligence Act supplies the second indispensable legal criterion for risk-based prevention in the contemporary period: wherever a risk-classification tool used for crime prevention incorporates automated or AI-assisted profiling, it must satisfy an ex ante conformity-assessment regime rather than being adopted through ordinary administrative discretion, precisely because of the elevated potential for opaque,

unreviewable and discriminatory harm that such tools present when applied to human liberty.

Against this international background, the Republic of Uzbekistan has in fact operated a risk-based logic of offense prevention for over a decade, though without describing it in those terms or subjecting it to the procedural safeguards summarised above. The foundational instrument remains the Law on the Prevention of Offenses No. ZRU-371 of 14 May 2014, which introduced the mechanism of preventive registration (*profilaktik hisob*), under which defined categories of persons, including those previously convicted, are placed on differentiated preventive accounting with individually tailored supervisory measures (Law No. ZRU-371, 2014). Recent doctrinal analysis of this mechanism confirms that the statute already establishes categories of persons subject to registration together with the grounds, procedures and terms of both registration and deregistration, and situates preventive accounting as a central legal instrument for addressing recidivism (“Features of Preventive Registration,” n.d.). Uzbek law therefore already performs, at the level of individual supervision, precisely the risk-differentiation function that the RNR model and the Council of Europe Probation Rules formalise internationally. Unlike those instruments, however, it contains no codified requirement that the underlying risk classification rest on a validated, statistically tested instrument rather than on the discretionary judgment of the registering authority.

The same risk-based logic has, in the past decade, migrated from the individual to the geographic level. Presidential Resolution No. PQ-2833 of 14 March 2017 restructured crime-prevention responsibility along the republic, region, district and mahalla hierarchy (Resolution No. PQ-2833, 2017); Presidential Decree No. PF-5005 of 10 April 2017 directed a radical increase in the effectiveness and accountability of the internal affairs bodies at every level of that hierarchy

(Decree No. PF-5005, 2017); and Presidential Decree No. PF-6196 of 26 March 2021 introduced a further reorganisation of law-enforcement activity specifically oriented toward public safety and offense prevention, including the creation of neighbourhood-level law-enforcement posts as the lowest tier of preventive activity (Decree No. PF-6196, 2021), building on the mahalla-support policy set out in Presidential Decree No. PF-5938 of 18 February 2020 (Decree No. PF-5938, 2020). Most recently, Resolution No. PP-1 of 3 January 2025 on measures to create a safe environment and further increase the effectiveness of the early prevention system of offenses in mahallas explicitly directs prevention resources toward specific neighbourhoods rather than uniformly across the territory (Resolution No. PP-1, 2025), and public reporting confirms that a related 2025 decree specifically targets mahallas with a complex criminogenic situation for complete coverage by AI-integrated high-technology surveillance cameras (“Modern Systems Against Crime,” 2025), in effect creating a formal risk tier of high-criminogenic neighbourhoods that receive a materially different, technologically intensive form of preventive control than other localities. This is a geographic analogue of the individual risk classification performed under Law No. ZRU-371 (2014), and it raises, at the level of an entire neighbourhood’s population, precisely the proportionality and non-discrimination concerns that the Council of Europe’s (2024) recommendation addresses at the level of the individual offender.

Uzbek legal scholarship has already begun to register the resulting gaps. Ismailov and Suvankulov (2021), analysing the reorganisation of law-enforcement activity into a popular system, trace the successive decrees restructuring crime prevention around public participation and neighbourhood-level engagement and situate them within the broader strategy of action for the further development of Uzbekistan, while emphasising that

ensuring the rights, freedoms and legitimate interests of every member of society must remain the central criterion against which any reorganisation of preventive activity is measured, a caution that applies with particular force once preventive activity is differentiated by assessed risk rather than applied uniformly. A more recent conference-based study of the implementation of Decree No. PF-6196 and Resolution No. PP-1 at the mahalla level candidly identifies continuing practical problems, namely a lack of integration among the mechanisms responsible for early prevention and a shortage of resources needed to operate the newly created neighbourhood-level structures effectively, notwithstanding the stated principles of social well-being and effectiveness underlying the reform (“Implementation of Decree No. PF-6196,” 2025). Read together, this body of domestic scholarship converges on the same diagnosis reached by international comparison: Uzbekistan has built an extensive institutional apparatus for differentiated, risk-oriented prevention at both the individual and the neighbourhood level, but it has not yet supplied that apparatus with a codified, validated risk-assessment methodology, with independent oversight of risk classification, or with the procedural safeguards (informed consent, a right to contest classification, and a categorical prohibition on unreviewed automated decision-making) that international instruments now treat as inseparable from any legitimate risk-based prevention regime.

The comparison between the two levels of governance therefore reveals four specific legal deficits rather than a single generic gap. First, neither the 2014 Law nor its subsequent decrees defines a validated methodology, comparable to the actuarial instruments developed under the RNR framework, by which an individual is placed on or removed from preventive registration; classification currently rests on administratively defined categories rather than on an empirically tested predictive instrument (Law No. ZRU-371, 2014; “Features of

Preventive Registration,” n.d.; Bonta & Andrews, 2007). Second, the extension of risk classification to entire neighbourhoods through the identification of areas with a complex criminogenic situation currently occurs without the kind of proportionality safeguard that the Council of Europe Probation Rules require at the individual level, creating a risk that residence in a classified neighbourhood becomes, in practice, a proxy ground for differential treatment of its inhabitants (Council of Europe, 2010; Resolution No. PP-1, 2025). Third, the introduction of AI-integrated surveillance technology into the classified mahallas has proceeded without the ex ante conformity assessment, technical documentation and human-oversight requirements that the Artificial Intelligence Act (2024) mandates for comparable law-enforcement risk-assessment tools in the European Union, and without the explicit prohibition on automated decision-making that the Council of Europe’s (2024) recommendation imposes on any AI-assisted risk tool used in the penal sphere. Fourth, no independent body currently audits either the individual preventive-registration decisions taken under Law No. ZRU-371 (2014) or the neighbourhood-level risk classifications underlying Resolution No. PP-1 (2025), leaving the same institution that applies the classification also responsible for validating its own accuracy: a structural weakness that the Uzbek literature itself has already begun to document (Ismailov & Suvankulov, 2021; “Implementation of Decree No. PF-6196,” 2025).

On the basis of this analysis, several concrete legislative and institutional measures are proposed for the further legal development of risk-based management in Uzbekistan’s offense-prevention system. First, the Law on the Prevention of Offenses should be amended to require that preventive registration of individuals be based on a validated, statistically tested risk-assessment instrument rather than on categorical administrative criteria

alone, following the methodological standard established by the risk-need-responsivity model (Andrews et al., 1990; Bonta & Andrews, 2007). Second, any classification of a mahalla as an area of complex criminogenic situation should be made subject to a published, reviewable methodology and to periodic reassessment, so that geographic risk classification cannot become a permanent or self-perpetuating administrative label, in line with the proportionality principle embedded in the Council of Europe Probation Rules (Council of Europe, 2010). Third, before any further deployment of AI-integrated surveillance or risk-scoring tools in prevention activity, Uzbekistan should adopt a domestic conformity-assessment procedure modelled on the treatment of high-risk law-enforcement systems under the Artificial Intelligence Act (2024), including mandatory technical documentation, data-governance standards, and an express statutory prohibition on any automated decision affecting an individual's legal status without human review, mirroring the Council of Europe's (2024) recommendation. Fourth, an oversight function independent of the agency that applies preventive measures, for example a specialised inspectorate reporting to the Oliy Majlis or to the Ombudsman, should be established to audit both individual and territorial risk classifications and to hear individual complaints, addressing the accountability gap already identified in the domestic literature (Ismailov & Suvankulov, 2021). Fifth, informed consent and a codified right to contest one's registration or deregistration status should be incorporated into the implementing regulations of Law No. ZRU-371 (2014), consistent with the consent and presumption-of-innocence safeguards required by the Council of Europe Probation Rules (Council of Europe, 2010). Sixth, resource and training gaps at the mahalla level, already documented in recent Uzbek scholarship ("Implementation of Decree No. PF-6196," 2025), should be addressed through

dedicated capacity-building so that neighbourhood-level bodies can apply any new risk-assessment methodology competently rather than merely nominally. Taken together, these measures would preserve the institutional advantages already achieved through Uzbekistan's decade of reform while aligning its practice of risk-based prevention with the validated-methodology, proportionality and human-oversight requirements that international law and criminological scholarship now treat as inseparable from any legitimate risk-based system.

The trajectory traced in this thesis runs from the general theory of risk-based regulation developed by Black (2005, 2010) and Baldwin and Black (2016), through the diagnosis of an actuarial turn in criminal justice offered by Beck (1992) and by Feeley and Simon (1992, 1994), to the validated risk-need-responsivity methodology of Andrews and Bonta (Andrews et al., 1990, 2011; Bonta & Andrews, 2007), and finally to the codification by the Council of Europe (2010, 2021, 2024) and the European Union (Artificial Intelligence Act, 2024) of proportionality, human oversight and non-automation as binding legal conditions on risk-based supervision. That trajectory demonstrates that risk-based management is not a neutral administrative efficiency measure but a distinct legal regime that must carry its own safeguards. Uzbekistan's prevention system already performs risk-based differentiation, both of individuals through preventive registration and of neighbourhoods through targeted, technologically intensive early-prevention measures. What it has not yet done is to codify the methodology, oversight and procedural protections that international practice now treats as the price of legitimacy for exactly this kind of differentiated governance. Supplying that codification is the principal legal task that remains.

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