

## The Issues Arising in Connection with the Trade of Precious Metals, Stones and Some Aspects of Legal Regulation in this Field

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### Abstract:

The article discusses a new sector in the field of precious stones and metals in the Republic of Uzbekistan, as well as an industry considered important from a legal perspective - the activity of extracting precious metals by gold prospectors. The current issues in the field, along with existing practices, are highlighted. Based on the research conducted within this topic, theoretical and scientific recommendations for the future development of the field are provided.

**Keywords:** precious stones, precious metals, subsoil use, "E-auction", extraction of precious metals by gold prospectors, geological exploration, illegal extraction of precious metals by individuals.

### Introduction

The field of trading in precious stones and metals involves geological exploration and the investigation of subsurface areas containing these valuable resources. This includes mining and production of metals and stones, as well as conducting various operations related to precious metals and stones.

Until recent years, engaging in non-industrial mining of precious metals in subsoil plots not considered objects of industrial mining in our republic was not legally possible. To address the ongoing issue of illegal mining and promote entrepreneurship, job creation, and increased welfare, efforts were made to establish legal mechanisms for non-industrial mining of precious metals, leading to improvements in existing legislation.

As a specific example, in 2018, the President of the Republic of Uzbekistan adopted the decision on November 26, PQ-4030, titled "On measures to create conditions for the implementation of mining of precious metals by the method of gold prospectors." Additionally, the Law of the Republic of Uzbekistan "On Precious Metals and Precious Stones" was enacted, providing a legal framework for handling relations concerning these valuable resources.

According to the national legislation, state regulation in the sphere of circulation of precious metals and precious stones shall be carried out through:

issuance of permits for the right to use subsoil plots for the extraction of precious metals and precious stones and licensing activities for the refining of precious metals;



implementation of the priority right to purchase mined precious metals and precious stones for the State Fund of Precious Metals and Precious Stones of the Republic of Uzbekistan, as well as the formation and replenishment of the assets of the Central Bank of the Republic of Uzbekistan in precious metals;

establishing requirements for accounting, storage, transportation of precious metals and precious stones and reporting on them, as well as a unified procedure for carrying out transactions with precious metals and precious stones and normative legal regulation of the actions of business entities carrying out operations with precious metals and precious stones;

carrying out by authorized state bodies of control over geological study and exploration of subsoil plots, extraction of precious metals and precious stones;

carrying out by the authorized state body of assay control over the production, use and sale of precious metals and precious stones;

determining the procedure for importing into the territory of the Republic of Uzbekistan and exporting from its territory precious metals and precious stones;

conducting state control over the activities of refineries and establishment of state control over the assaying and hallmarking of jewelry and other products made of precious metals and precious stones.

A significant aspect of this legal framework is the creation of a basis for the extraction of precious metals in underground sections through the method of gold prospectors. This method is considered a special type of subsoil use, conducted in subsoil plots. The law specifies the allocation of subsoil plots, including gold mines up to 5 hectares in size, for the mining of precious metals by gold prospectors.

Under this regulation, permits are issued for the right to use subsoil plots for mining of precious metals by gold prospectors. However, the total area of subsoil plots granted to one applicant should not exceed 20 hectares during the year.

Furthermore, the law includes provisions for canceling permits and limiting engagement in this activity for one year in cases of violation of established procedures, non-compliance with legal requirements, concealment of precious metals, failure to realize them within six months, or unsafe work practices resulting in serious bodily injury or potential death.

“Despite the legal foundations outlined in the legislation, practical challenges have emerged in the mining of precious metals by gold prospectors. According to statistical data published on the official website of the Senate of the Oliy Majlis of the Republic of Uzbekistan, between 2019 and 2023, permits were issued for 270 objects through "E-auction" for mining of precious metals by gold prospectors.”<sup>1</sup>

“The studies, direct dialogues with the population, and an analysis of law enforcement practice revealed several problems and shortcomings in the field. In 2020, 34 administrative cases were

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<sup>1</sup> <https://senat.uz/oz/events/post-1567>



initiated in connection with the illegal mining of gold and precious metals, increasing to 463 in 2021 and almost 1,500 in 2022.”<sup>2</sup>

It was also noted that cases of illegal mining in open fields are on the rise, particularly by representatives of the population residing in Tashkent, Namangan, Jizzakh, Navoi, Bukhara, and Samarkand regions. Addressing these challenges is crucial to sustaining the benefits of legal mining activities and preventing the negative impact of illegal practices on the industry and public safety.

In this context, it is observed that taking advantage of the legal benefits of lawful extraction of gold and other precious metals and increasing legal and educational measures by competent authorities are essential.

“The consequences of not adhering to safety requirements during extraction activities in open fields resulted in approximately 30 citizens losing their lives due to gas poisoning or being buried under sand and rocks within the 10 months of 2021-2022 and 2023. Furthermore, situations exist where individuals who have not reached the age of majority are involved in illegal gold extraction activities in open fields.”<sup>3</sup>

In addition, the amount of fines specified by Article 702 of the Administrative Responsibility Code of the Republic of Uzbekistan regarding individuals engaged in the illegal extraction of gold and precious metals from rivers containing gold and other precious metals has been set at a lower level. In total, 102 individuals have been repeatedly involved in the unlawful extraction of precious metals by individuals as of today.

Moreover, “the areas surrounding mines and quarries acquired by "Navoi Mining and Metallurgy Combinat" JSC, "Almalyk Mining and Metallurgy Combinat" JSC, and others have not been properly fenced off, leading to unauthorized access. After the completion of projects by the territorial expeditions of the Ministry of Mining and Geology, open pits and tailings were not properly closed, creating conditions for citizens engaged in the illegal extraction of precious metals in these areas. Normative-legal documents related to conducting expertise to determine the amount of precious metals in ore rocks are not available.”<sup>4</sup>

To address the situations highlighted above and eliminate the existing legal violations, as well as to develop the extraction of precious metals through the method of gold prospectors as a type of entrepreneurial activity, ensuring public safety, improving the infrastructure of the gold and jewelry production sector, the following proposals are recommended:

- First and foremost, develop and implement the relevant organizational "Roadmap" by competent, responsible organizations to address the identified shortcomings and conduct strict monitoring of its implementation.

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<sup>2</sup> <https://kun.uz/news/2023/11/28/songgi-3-yilda-qariyb-30-nafar-fuqaro-oltin-qazib-olish-jarayonida-halok-boldi-senat>

<sup>3</sup> <https://senat.uz/oz/events/post-1567>

<sup>4</sup> <https://kun.uz/news/2023/11/28/songgi-3-yilda-qariyb-30-nafar-fuqaro-oltin-qazib-olish-jarayonida-halok-boldi-senat>



- Enhance awareness - raising activities among the public about the essence and content of the current legislation, the conditions created, and the terms and conditions of activities assigned to the State Committee for Geology and Mineral Resources of the Republic of Uzbekistan, the Ministry of Finance of the Republic of Uzbekistan, and the Central Bank of the Republic of Uzbekistan in the field of precious metals and precious stones in the field of monetary circulation.

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