



# Procedural features of consideration of insolvency cases with the participation of a foreign element in the Republic of Uzbekistan

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## Abstract

This article examines the procedural aspects of cross-border insolvency (bankruptcy) proceedings in the Republic of Uzbekistan. It analyzes the impact of the Law of the Republic of Uzbekistan "On Insolvency" (2022) and the Economic Procedure Code on the status of foreign creditors and debtors. The application of international treaties, the principle of reciprocity, and the exequatur of foreign judicial decisions are considered. The need to implement the UNCITRAL Model Law on Cross-Border Insolvency to enhance the country's investment attractiveness is substantiated.

**Keywords:** Cross-border bankruptcy, insolvency, economic process, foreign creditor, exequatur, UNCITRAL Model Law, international cooperation.

Economic activity in the modern era is rarely limited to the borders of a single state. Commercial organizations, acting as entities under private international law, incorporate subsidiaries abroad, open representative offices, diversify assets across various jurisdictions, and attract debt capital from foreign banking syndicates<sup>1</sup>.

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1 Ibratova F. B. et al. Legal Issues of Observation–Bankruptcy Procedures Applicable by the Economic Court of Uzbekistan //Journal of Advanced Research in Law and Economics. – 2019. – T. 10. – №. 1 (39). – C. 187-194.



In accordance with the fundamental principles of the Economic Procedural Code of the Republic of Uzbekistan, justice in economic matters is carried out on the basis of equality of all subjects before the law and the court, which fully extends to the protection of the rights of foreign investors and transnational creditors<sup>2</sup>.

Nevertheless, the procedural aspects of cases complicated by a foreign element require consideration. Cross-border insolvency is characterized by the presence of a foreign element, which may be expressed in the subject composition (when the creditor or debtor is a foreign entity), the object composition (when the debtor's assets subject to inclusion in the bankruptcy estate are located outside the country of the main proceeding), or in the legal fact itself (when the obligation leading to insolvency arose in the territory of a foreign state). The judicial system of the Republic of Uzbekistan is actively involved in international cooperation mechanisms, guided by the clarifications of the highest judicial authorities, in particular, Resolution No. 6 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated May 25, 2012, "On Certain Issues of International Cooperation in the Sphere of Civil and Criminal Proceedings"<sup>3</sup>.

This academic study is devoted to a comprehensive analysis of the procedural aspects of cross-border insolvency proceedings in the Republic of Uzbekistan. This work will synthesize current national legislation, current issues in law enforcement practice, and leading international standards, including an analysis of the potential for implementing mechanisms proposed by the United Nations Commission on International Trade Law (UNCITRAL).

**Theoretical and doctrinal approaches to international regulation of cross-border insolvency.** The theory of strict territoriality is based on a strict understanding of state sovereignty. According to this approach, insolvency proceedings initiated in a given state are legally valid only within the territorial boundaries of that state. Debtor assets located abroad are not covered by these proceedings, and foreign creditors may be limited in their rights to satisfy their

<sup>2</sup> Feruza I., Nurbek I., Abrorbek S. Legal Issues of Arbitration and Challenging Decisions in State Courts in Uzbekistan //American Journal of Pedagogical and Educational Research. – 2024. – T. 30. – C. 74-81.

<sup>3</sup> <https://lex.uz/ru/docs/161697>



claims from the local bankruptcy estate<sup>4</sup>. This position literally forces creditors to initiate parallel, independent legal proceedings in each country where the debtor's assets are located.

In contrast to territoriality, the theory of absolute universalism postulates that insolvency proceedings should be unified and global. Proceedings initiated by the court in the location of the debtor's Center of Main Interests (COMI) should be automatically recognized in all other countries and extraterritorially encompass all of the debtor's assets, wherever they may be located. Under this paradigm, foreign courts serve only an auxiliary function, transferring local assets to the control of the foreign general manager<sup>5</sup>.

The desire to overcome the extremes of both theories led the international legal community to develop a compromise and the most viable concept in modern conditions: modified universalism. This doctrine formed the basis of the UNCITRAL Model Law on Cross-Border Insolvency, adopted in 1997<sup>6</sup>. Modified universalism recognizes the priority of the main proceeding (opened at the place of COMI), but at the same time allows for the possibility of initiating secondary (non-main) proceedings in other states where the debtor has a permanent establishment, branch or significant assets.

The Republic of Uzbekistan, in its current procedural paradigm, de facto gravitates toward a territoriality model with elements of interstate cooperation based on the principle of reciprocity<sup>7</sup>.

**The evolution of legislation in the Republic of Uzbekistan: from a liquidation paradigm to insolvency recovery procedures.** Fundamental provisions of the Civil Code of the Republic of Uzbekistan stipulate that a legal entity that is a commercial organization (except for a state-owned enterprise), as well as an individual entrepreneur, may be declared insolvent by a court decision

4 Баранников А. Л., Данилина М. В., Равкин В. Н. Трансграничное банкротство. – 2016.

5 Щербаков А. В., Масленникова Л. В. Трансграничное банкротство юридических лиц // Вестник экономики и права. – 2021. – № 51. – С. 198-203.

6 Комиссия ООН по праву международной торговли (UNCITRAL). Типовой закон о трансграничной несостоятельности (принят 30.05.1997) // UNCITRAL. URL: <https://uncitral.un.org/ru/texts/insolvency/modellaw/commercial> (дата обращения: 09.04.2026).

7 Ибратова Ф. Б. Банкротство ликвидируемого субъекта предпринимательства: проблемы и решения // Norwegian Journal of Development of the International Science. – 2021. – № 58-2. – С. 45-48.



if they are unable to satisfy creditors' claims. For a long time, this process was regulated by the Bankruptcy Law, which, according to experts, had a pronounced liquidation bias and did not fully meet the objectives of financial recovery for debtors.

The adoption of Law No. ZRU-763 of the Republic of Uzbekistan "On Insolvency" on April 12, 2022, marked a conceptual shift toward recovery procedures. One of the key innovations of this law was not only the semantic but also the legal replacement of the term "bankruptcy" with the concept of "insolvency." As noted in academic literature on economic processes, this step is aimed at destigmatizing the financial difficulties of businesses and emphasizing the possibility of restoring solvency through pre-trial rehabilitation, observation, judicial rehabilitation, and external management<sup>8</sup>. The term "bankrupt" now applies exclusively to a debtor who has already been declared insolvent by the court at the stage of opening liquidation proceedings.

**Conceptual transition and expansion of the subject matter in the context of the foreign element.** A key aspect of the 2022 reform and subsequent amendments to the Economic Code of the Republic of Uzbekistan, introduced by Law No. ZRU-911 of February 21, 2024<sup>9</sup> the gradual replacement of the term "citizen" with the category "natural person" was the result. This expanded the jurisdiction of the economic courts of the Republic of Uzbekistan, allowing insolvency proceedings to be applied not only to citizens of the country, but also to foreign nationals, as well as stateless persons conducting commercial activities or having debt obligations within the territory of the republic<sup>10</sup>. Now, a foreign citizen doing business in Uzbekistan and facing insolvency falls under the jurisdiction of national courts on the same grounds as an Uzbek citizen.

The Law on Insolvency lacks a separate chapter or comprehensive section specifically regulating cross-border insolvency. The legislator left the regulation of legal relations with a foreign element to general conflict-of-laws rules. Article

8 Babakulovna I. F., Bahodirovna A. K. Ibratova FB, Abdullaeva Kh. B. Third parties in economic proceedings: theory and practice //Editorial team. – 2016. – №. 12. – С. 7-11.

9 Закон Республики Узбекистан «О неплатежеспособности» (от 12.04.2022, № ЗРУ-763) // <https://lex.uz/ru/docs/5957616> (дата обращения: 09.04.2026).

10 Попова Е. В., Попов Е. В. Трансграничное банкротство //Законодательство. – 2005. – №. 4. – С. 15-20.



2 of Law ZRU-763 enshrines a classic conflict-of-laws linkage for the continental legal system: if an international treaty of the Republic of Uzbekistan establishes rules different from those stipulated by the insolvency legislation of the Republic of Uzbekistan, the rules of the international treaty shall apply. This provision serves as the main "gateway" for the incorporation of international procedural law into the practice of economic courts<sup>11</sup>.

**The procedural and legal status of foreign entities in economic litigation.** The procedural status of foreign entities is detailed in Section V of the Code, which guarantees foreign states, international organizations, foreign legal entities, citizens, and stateless persons the right to unimpeded access to economic courts to protect their violated or disputed rights and legitimate interests.

Foreign persons enjoy procedural rights and bear procedural obligations on an equal basis with legal entities and citizens of the Republic of Uzbekistan<sup>12</sup>. In the context of insolvency cases, this means that a foreign creditor (for example, a foreign bank or a multinational supplier) has an unlimited right to initiate insolvency proceedings against an Uzbek debtor in the presence of proven debt, to file claims for inclusion in the register of creditors, to have the right to vote at creditors' meetings, to participate in the approval of the external management plan, and to appeal the unlawful actions of the judicial manager in the appellate, cassation, and revision courts.

At the same time, the EPC of the Republic of Uzbekistan, while protecting national interests, provides for the institution of retorsion. The legislation of the Republic of Uzbekistan may establish retaliatory restrictions on the procedural rights of legal entities and individuals of those states whose courts permit special restrictions on the procedural rights of Uzbek legal entities and individuals.

The legislation of the Republic of Uzbekistan may establish retaliatory restrictions against legal entities and individuals in those countries whose courts

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11 Кравченко В. С., Давудов Д. А. Трансграничное банкротство корпораций: правовое регулирование //Международный журнал гуманитарных и естественных наук. – 2024. – №. 6-1 (93). – С. 60-64. Кравченко В. С., Давудов Д. А. Трансграничное банкротство корпораций: правовое регулирование //Международный журнал гуманитарных и естественных наук. – 2024. – №. 6-1 (93). – С. 60-64.

12 Руднев В. О. Трансграничное банкротство, проблемы реализации и привлечения к ответственности контролирующих лиц корпорации //Образование и право. – 2024. – №. 7. – С. 294-298.



permit special restrictions on the procedural rights of legal entities and citizens of the Republic of Uzbekistan.

Although in practice, the use of retorsion in bankruptcy cases is extremely rare, the existence of this rule underscores the sovereign nature of economic justice<sup>13</sup>.

**Determining the jurisdiction of economic courts in cases with a foreign element.** Establishing the jurisdiction of an economic court is a primary task when considering an application to initiate insolvency proceedings. Article 239 of the Economic Procedural Code of the Republic of Uzbekistan establishes comprehensive criteria for determining the jurisdiction of economic courts in cases involving foreign entities, which are directly applicable to insolvency proceedings. An economic court has the right to initiate proceedings if at least one of the following conditions is met regarding the connection of the disputed legal relationship with the territory of the Republic of Uzbekistan:

1. The defendant (the debtor in the insolvency case) is located or resides in the Republic of Uzbekistan, or the debtor has property within the Republic.
2. The branch or official representative office of a foreign entity is located in the Republic of Uzbekistan.
3. The obligation that served as the basis for the creditor's claim arises from a contract, the performance of which was to take place or actually took place in the Republic of Uzbekistan.
4. The claim arose from unjust enrichment or damage to property that occurred in Uzbekistan<sup>14</sup>.

An analysis of these jurisdictional criteria allows us to draw an important conclusion: even if a foreign multinational company has its principal place of business abroad but also holds assets (real estate, production facilities, shares in joint ventures) in Uzbekistan, domestic economic courts have full jurisdiction to initiate insolvency proceedings against it.

13 Попенкова Ю. С., Сенькина А. А. Трансграничное банкротство //Человек. Право. Экология. – 2017. – С. 397-401.

14 Ястребова А. А. Триада правовых понятий «банкротство», «трансграничное банкротство» и «субсидиарная ответственность» в деятельности контролирующих должника лиц //Тенденции развития науки и образования. – 2021. – №. 72-6. – С. 181-185.



Initiating bankruptcy proceedings against a foreign corporation solely on the basis of its assets in Uzbekistan will inevitably lead to the emergence of parallel (competing) proceedings, especially if a primary reorganization or liquidation case has already been opened against the same company abroad. The lack of clear rules in legislation regarding the subordination of such parallel proceedings creates legal uncertainty for foreign investors.

### **Proof and procedural aspects of legalization of foreign documents.**

According to Article 67 of the Economic Procedure Code of the Republic of Uzbekistan, proof consists of collecting, examining, verifying, and evaluating evidence to establish circumstances relevant to the proper resolution of the case. In cross-border bankruptcy, the court must establish with absolute certainty the legal status of the foreign party, the scope of its claims, and the powers of its representatives.

Procedural legislation strictly regulates the legalization of foreign official documents. Documents issued, compiled, or certified by competent authorities of foreign states in accordance with foreign law are accepted by the economic courts of the Republic of Uzbekistan only if they have been consularly legalized<sup>15</sup>.

Consular legalization is a complex, multi-step procedure for confirming the authenticity of an official's signature and the seal of a foreign agency, carried out by diplomatic missions or consular offices.

To facilitate international document flow, the Republic of Uzbekistan is a party to the 1961 Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents. For states party to this convention, a special apostille stamp is sufficient. Therefore, a foreign creditor filing an insolvency case with an economic court is required to submit an extract from the commercial register of its country of incorporation, a registration certificate, or other title document duly apostilled.

Furthermore, the Procedural Code contains a mandatory requirement for the language support of evidence. Any documents drawn up in a foreign language (loan agreements, invoices, foreign court decisions, correspondence between the

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15 Ибратова Ф. Б. Гражданско-правовые проблемы признания банкротами индивидуальных предпринимателей в Республике Узбекистан //Вопросы современной юриспруденции. – 2015. – №. 5-6 (47). – С. 61-70.



parties) submitted to the economic court must be accompanied by a translation into the state language (Uzbek) or the language in which the economic proceedings are conducted (most often Russian), the accuracy of which must be certified by a notary (Article 246).

In accordance with Articles 154 and 155 of the Economic Procedural Code of the Republic of Uzbekistan, failure to provide properly legalized and translated documents confirming the legal status of the plaintiff or the authority of the person signing the application is absolute grounds for the judge to return the application without consideration.

**International cooperation and legal assistance in insolvency cases.** Effective resolution of cross-border insolvency cases is unthinkable without the ability of national courts to cooperate with each other to obtain evidence, locate assets, and enforce judicial decisions. In the Republic of Uzbekistan, the conceptual and practical aspects of such cooperation are explained in detail in Resolution No. 6 of the Plenum of the Supreme Court of the Republic of Uzbekistan "On Certain Issues of International Cooperation in Civil and Criminal Proceedings"<sup>16</sup>.

Legal assistance refers to the performance by competent authorities of one state, on behalf of similar authorities of another (foreign) state, of certain procedural actions. In the context of insolvency proceedings, such procedural actions may include:

- Drafting, forwarding, and delivering originals or certified copies of court documents to foreign creditors or debtors;
- Conducting document seizures (e.g., financial statements from foreign banks);
- Identifying the debtor's assets abroad and seizing them as a security measure (Articles 93-94 of the Economic Procedural Code of the Republic of Uzbekistan);

<sup>16</sup> <https://lex.uz/ru/docs/161697>



- Interrogating witnesses or the debtor's executives located outside the country<sup>17</sup>.

The Economic Court of the Republic of Uzbekistan executes orders submitted to it by foreign courts in the manner established by the Economic Court of the Republic of Uzbekistan and, in turn, has the right to apply to foreign courts with similar judicial orders.

**The UNCITRAL Model Law on Cross-Border Insolvency as a Global Benchmark.** Recognizing the ineffectiveness of traditional conflict-of-laws mechanisms and bilateral treaties in the context of globalized capital, the United Nations Commission on International Trade Law (UNCITRAL) developed the Model Law on Cross-Border Insolvency on May 30, 1997. The document was created as a universal model instrument proposed to states for implementation in national legal systems in order to ensure coordination and cooperation between courts of various jurisdictions. By 2025, the provisions of the Model Law had been implemented into the legislation of 62 states (65 jurisdictions), including the United States (Chapter 15 Bankruptcy Code), the United Kingdom, Japan, Australia, as well as a number of developing economies in the Asia-Pacific region, Latin America, and Africa<sup>18</sup>.

The UNCITRAL Model Law on Cross-Border Insolvency is based on four fundamental procedural principles: access, recognition, judicial assistance, and cooperation.

1. The principle of direct access (Access) grants foreign representatives and foreign creditors the right to directly apply to the court of the host state without the need for diplomatic legalization procedures<sup>19</sup>.

2. The principle of recognition (Recognition) provides for a simplified procedure for recognizing foreign proceedings and their classification into main (foreign main proceeding), opened at the location of the debtor's center of main

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17 Ibratova F. B. et al. Legal Issues of Observation–Bankruptcy Procedures Applicable by the Economic Court of Uzbekistan //Journal of Advanced Research in Law and Economics. – 2019. – Т. 10. – №. 1 (39). – С. 187-194.

18 UNCITRAL. Status: UNCITRAL Model Law on Cross-Border Insolvency (1997) // [uncitral.un.org](http://uncitral.un.org) (дата обращения: 09.04.2026).

19 Давтян А. М., Оганнесян К. М. ТРАНСГРАНИЧНОЕ БАНКРОТСТВО. ПОНЯТИЕ, ПРОЦЕДУРА, ОСОБЕННОСТИ //Тринадцатая годовичная научная конференция. – 2019. – С. 84-90.



interests (COMI), and non-main (foreign non-main proceeding), initiated in the state where the debtor carries out permanent economic activity (establishment)<sup>20</sup>.

3. The principle of judicial assistance (Relief) ensures the automatic application of a moratorium on individual collection and enforcement actions after the recognition of the main foreign proceeding in the territory of the host state, which prevents a race between creditors and ensures the safety of the bankruptcy estate.

4. The principle of cooperation enshrines the possibility of direct procedural interaction between courts of various jurisdictions and foreign administrators, including the exchange of information, holding joint hearings, and concluding cross-border protocols. Building on this concept, the UNCITRAL Model Law on Group Insolvency was adopted in 2019, expanding the coordination mechanism to include transnational corporate structures.

**Conclusion.** Despite the progressive nature of the 2022 Law of the Republic of Uzbekistan "On Insolvency" (ZRU-763) and the detailed provisions of the Economic Procedure Code of the Republic of Uzbekistan, the absence of specific provisions on cross-border bankruptcy in national law and the failure to implement the UNCITRAL Model Law create significant institutional barriers for international business and reduce the competitiveness of the domestic jurisdiction.

First, the implementation of the UNCITRAL Model Law on Cross-Border Insolvency (1997) is strongly recommended. Including a specialized section adapting the Model Law's provisions to the legal realities of Uzbekistan in the current Law ZRU-763 will ensure transparency, legal predictability, and reliable guarantees that foreign proceedings will be promptly recognized by Uzbek economic courts. This is critical for protecting debtors' assets from fragmented collection efforts and stimulating the influx of foreign direct investment.

Secondly, Section V of the Economic Procedural Code of the Republic of Uzbekistan requires modernization. Chapters 32 and 33 of the EPC of the Republic of Uzbekistan must be supplemented with separate provisions

<sup>20</sup> Бандурина Н. В., Гаврилов В. С., Сироткин И. А. К вопросу о трансграничном банкротстве в современной юридической практике // Вопросы российского и международного права. – 2023. – Т. 13. – №. 6А. – С. 136-144.



regulating the exequatur of foreign court decisions exclusively in insolvency cases. The classic grounds for refusing to recognize foreign judgments must be adapted to the specifics of collective proceedings. In particular, it is necessary to procedurally secure the right of foreign representatives to file applications for urgent interim measures (in accordance with Chapter 8 of the EPC of the Republic of Uzbekistan) against the debtor's property in Uzbekistan even before the official recognition of a foreign judgment.

Third, it is crucial to legalize the mechanism of direct judicial communication. The Economic Procedural Code of the Republic of Uzbekistan should contain a mandatory provision allowing economic court judges to directly interact with foreign courts and insolvency practitioners via secure videoconferencing and electronic document management, bypassing the lengthy process of transmitting judicial requests through justice authorities.

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