



## SUBORDINATION AND JURISDICTION OF INSOLVENCY CASES

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**Abstract:** the article analyzes the issues of subordination and jurisdiction of insolvency cases. The Institute of subordination and jurisdiction is one of the main institutions of civil and economic procedural law. Proper understanding and use of these procedural institutions makes it possible to determine which court is the competent court for the consideration and resolution of insolvency cases. It is proved that cases of insolvency are considered according to the rules of exclusive subordination and jurisdiction.

**Keywords:** insolvency, bankruptcy, legal entity, individual, insolvency, subordination, jurisdiction, economic court.

The main indicator of the ability of citizens and legal entities to apply to a particular jurisdictional body for the protection of their rights is the institution of subordination[1]. Since subordination is a range of legal cases, the consideration and resolution of which is attributed to the subordination of a particular body.

The subordination of cases is established by laws and other regulatory acts. On the basis of article 26 of the Economic Procedural Code of the Republic of Uzbekistan (EPC RUz)[2] and the Law “On Insolvency” of the Republic of Uzbekistan[3] insolvency cases are subordinate to economic courts.

But it should be noted that in the Code of Economic Procedure, the term bankruptcy is applied to the term insolvency. On the basis of Article 27 of the EPC of the Republic of Uzbekistan, bankruptcy cases include cases of bankruptcy of legal entities and citizens engaged in entrepreneurial activity without the formation of a legal entity and having the status of an individual entrepreneur acquired in accordance with the procedure established by law, as well as individuals who have lost the status of an individual entrepreneur, unable to satisfy creditors' claims for monetary obligations and (or) fulfill obligations on mandatory payments, if monetary obligations and obligations for mandatory payments arise from their previous business activities.

But it is necessary to distinguish between “bankruptcy” and “insolvency”. Because, “insolvency” is a broad concept and differs from the concept of “bankruptcy”. The Law of the Republic of Uzbekistan “On Insolvency” was adopted on April 12, 2022. In connection with the adoption of this Law, the Law of the Republic of Uzbekistan dated April 24, 2003 “On Bankruptcy” has lost its force.

According to the main concepts defined in the Law of the Republic of Uzbekistan “On Insolvency”:

bankrupt – a debtor recognized as insolvent on the basis of a court decision, in respect of which the procedure of liquidation proceedings or the sale of his property is applied;

insolvency – the inability of the debtor recognized by the court to fully satisfy the claims of creditors for monetary obligations and (or) fulfill their duties on taxes and fees. That's why the term “bankruptcy”, formerly known as the “Law on Bankruptcy”, meant only the concept of declaring an economically insolvent enterprise bankrupt and liquidating it, which led to the need to introduce the concept of “insolvency” into the legislation. After all, the Law of the Republic of Uzbekistan “On Insolvency” is fundamentally different from the Law on Bankruptcy, which has lost its force, and is aimed at rehabilitating legal and natural persons in economic distress by applying insolvency procedures and restoring their activities. Therefore, in connection with the adoption of the new Law “On Insolvency”, it is necessary to make appropriate changes and amendments to the Economic Procedural Code of the Republic of Uzbekistan.

To determine the type of subordination of insolvency cases, it is necessary to know on what grounds the types of subordination are divided. A more common basis for the classification of types of subordination in the legal literature is the number of legal bodies authorized to resolve legal cases. On this basis, the subordination is divided into exclusive (singular) and multiple. In case of exclusive subordination, the law establishes a certain body to which certain categories of cases are subordinate, and no one except this body is authorized to resolve this case. With regard to insolvency cases, the exclusive subordination of the economic court has been established. The norms defining the exclusive subordination of insolvency cases are contained in Part 1, Article 6 of the Law “On Insolvency”. In addition to insolvency cases, this type of subordination includes cases on the establishment of facts relevant to the emergence, modification or termination of the rights of legal entities and individual entrepreneurs in the economic sphere, cases on corporate disputes, etc.

In the scientific literature, this type of subordination is referred to as exceptional[4], special[5] or single[6]. However, based on the basis of the legal nature and in relation to multiple types of subordination, it would be advisable to call this type of single subordination of legal cases. Unlike a single type of subordination, multiple subordination provides for the possibility of considering economic cases by several jurisdictional bodies.

Cases on the debtor's insolvency are considered by the court according to the rules provided for by the Economic Procedural Code of the Republic of Uzbekistan, taking into account the specifics established by the Law “On Insolvency”.

Jurisdiction is an institution (a set of legal norms) that regulates the relevance of cases under the subordination of courts to the jurisdiction of a particular court of the judicial system for their consideration in the first instance.

Jurisdiction is divided into two types: generic and territorial. Generic jurisdiction means referring the case to the jurisdiction of one or another link of the system of economic courts. For example, on the basis of Part 3 of Article 32 of the EPC of the Republic of Uzbekistan, disputes arising from economic agreements between public administration bodies and local public authorities are considered by the Supreme Court of the Republic of Uzbekistan.

Territorial jurisdiction determines the spatial competence of the same court of the judicial system to consider economic cases. Territorial jurisdiction is divided into the following types: general territorial jurisdiction (Article 33 of the EPC RUz), jurisdiction at the choice of the plaintiff (alternative) (Article 34 of the EPC RUz), exclusive jurisdiction (Articles 35-37 of the EPC RUz), contractual jurisdiction (Article 38 of the EPC RUz).

For example, according to the general rule of jurisdiction:

- lawsuits against legal entities are brought to court at the place of their state registration;
- claims against legal entities arising from the activities of their separate divisions are brought to court at the place of state registration of the separate divisions;
- claims against citizens are brought to court at the place of their state registration as an individual entrepreneur, etc.

Cases of insolvency are considered according to the rules of exclusive jurisdiction. Exclusive jurisdiction is a special type of jurisdiction that prescribes the consideration of certain categories of cases in courts precisely specified in the law. This means that the case can be admitted to consideration only in a strictly defined judicial body authorized to consider such a dispute. Such jurisdiction cannot be changed at the request of the parties to the dispute.

Cases of insolvency in accordance with article 7 of the Law on Insolvency are considered by the court on the basis of an application of a person (body) entitled to appeal to the court at the place of state registration of the debtor – a legal entity, as well as at the place of residence of an individual and (or) an individual entrepreneur.

However, on the basis of article 36 of the EPC of the Republic of Uzbekistan, it is established that bankruptcy cases of legal entities and citizens are considered in court at the place of state registration of the debtor. In our opinion, claims for insolvency to citizens engaged in entrepreneurial activity without the formation of a legal entity and having the status of an individual entrepreneur acquired in accordance with the procedure established by law, as well as to individuals who have lost the status of an individual entrepreneur should be submitted to the court at the place of state registration of the debtor. And to individuals who do not have the status of an individual entrepreneur at the place of residence of an individual. Proceeding from the above, in conclusion, it can be noted that insolvency cases are considered according to the rules of exclusive subordination and jurisdiction. A clear definition of the subordination and jurisdiction of insolvency cases makes it possible for timely consideration and resolution by economic courts of these categories of cases, ensuring the protection of the rights and legitimate interests of citizens and legal entities. And also in connection with the adoption of the new Law “On Insolvency” of the Republic of Uzbekistan, there is a need to make appropriate changes and amendments to the economic procedural legislation.

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