LAW, POLICY AND SOCIETY ПРАВО, ПОЛИТИКА И ОБЩЕСТВО - HUQUQ, SIYOSAT VA JAMIYAT
ILMIY-TAHLILIY JURNAL
Issue - 11(2026) / ISSN 3030-3052 Available at www.uznauka.uz

YASHIRIN BENEFITSIAR MULKDORLIK VA QONUNLAR KOLLIZIYASI BILAN BOG‘LIQ TRANSCHEGARAVIY TO‘LOVGA QOBILIYATSIZLIK ISHLARIDA QARZDOR AKTIVLARINI QAYTARISHNING XALQARO-HUQUQIY MEXANIZMLARI

Sadullayev Bohodir

O‘zbekiston Respublikasi Oliy sudi markaziy apparati Plenum va Rayosat kotibiyatining katta maslahatchisi

Elektron pochta: brandonclaudemccallester@gmail.com

Annotatsiya. *Mazkur maqolada benefitsiar mulkdor yashirilgan, tegishli shaxslar, hujjatlar va mol-mulk esa turli yurisdiksiyalarda joylashgan holatlarda qarzdor aktivlarini aniqlash, saqlab qolish va qaytarishning huquqiy mexanizmlari tadqiq etiladi. Muallifning fikricha, aktivlarni samarali qaytarish axborot to‘plash, vaqtinchalik himoya, huquq egasini aniqlash va ijro etiladigan himoya vositasidan iborat o‘zaro huquqiy bog‘liq bosqichlarni talab qiladi. Benefitsiar mulkdorlik to‘g‘risidagi ma’lumotlar nazorat kimda ekanini ko‘rsatishi va keyingi tekshiruvga asos bo‘lishi mumkin, biroq muayyan mol-mulk to‘lovga qobiliyatsizlik massasiga tegishli ekanini o‘z-o‘zidan isbotlamaydi. Tadqiqotda doktrinal va qiyosiy metodlar asosida UNCITRALning to‘lovga qobiliyatsizlikka oid namunaviy qonunlari, aktivlarni kuzatish va qaytarish bo‘yicha 2025-yilgi qo‘llanma, Yevropa Ittifoqi qonunchiligi, tanlangan sud qarorlari, FATF tavsiyalari hamda O‘zbekiston Respublikasining “To‘lovga qobiliyatsizlik to‘g‘risida”gi Qonuni tahlil qilinadi. Tahlil uchta takrorlanuvchi zaif jihatni aniqladi: nazorat va mulkiy huquqning aralashtirib yuborilishi, ish yuritishning tan olinishi aktivlarni qaytarish to‘g‘risidagi sud qarorlari ijrosini avtomatik ta’minlaydi, deb hisoblanishi hamda to‘lovga qobiliyatsizlik vositalari bilan jinoiy tartibda*

LAW, POLICY AND SOCIETY ПРАВО, ПОЛИТИКА И ОБЩЕСТВО - HUQUQ, SIYOSAT VA JAMIYAT
ILMIY-TAHLILIY JURNAL
Issue - 11(2026) / ISSN 3030-3052 Available at www.uznauka.uz

aktivlarni qaytarish o‘rtasidagi muvofiqlashtirishning yetarli emasligi. Maqolada tabaqalashtirilgan dalillash yondashuvi ishlab chiqilgan bo‘lib, unga ko‘ra talab qilinadigan isbot darajasi arizachi axborot olishni, vaqtinchalik cheklovni yoki yakuniy qaytarishni so‘rayotganiga bog‘liq bo‘ladi. O‘zbekiston uchun tan olish va sud hamkorligining alohida huquqiy asosini yaratish, chet ellik vakillarning axborotga kirishiga oid aniq qoidalarni belgilash, muvofiqlashtirilgan vaqtinchalik himoyani hamda to‘lovga qobiliyatsizlik bilan bog‘liq sud qarorlarini ijro etishning alohida tartibini joriy etish taklif qilinadi. Ushbu takliflar milliy qonunchilikdagi axborot olish, bitimlarni haqiqiy emas deb topish va subsidiar javobgarlikka oid amaldagi normalarga asoslanadi. Asosiy xulosaga ko‘ra, shaffoflik aniq da’vo asosi, to‘g‘ri belgilangan qo‘llaniladigan huquq va samarali ijro forumi bilan bog‘langandagina qaytarib olinadigan qiymat yaratadi.

Kalit so‘zlar: *transchegaraviy to‘lovga qobiliyatsizlik; benefitsiar mulkdorlik; aktivlarni kuzatish; vaqtinchalik himoya choralari; qonunlar kolliziyasi; chet el sud qarorlari; bitimlarni haqiqiy emas deb topish; sud hamkorligi; O‘zbekiston.*

МЕЖДУНАРОДНО-ПРАВОВЫЕ МЕХАНИЗМЫ ВОЗВРАТА АКТИВОВ ДОЛЖНИКА ПРИ ТРАНСГРАНИЧНОЙ НЕСОСТОЯТЕЛЬНОСТИ В УСЛОВИЯХ СКРЫТОГО БЕНЕФИЦИАРНОГО ВЛАДЕНИЯ И КОЛЛИЗИИ ЗАКОНОВ

Садуллаев Боходир

Старший консультант секретариата Пленума и Президиума центрального аппарата Верховного суда Республики Узбекистан

Электронная почта: brandonclaudemccallester@gmail.com

LAW, POLICY AND SOCIETY ПРАВО, ПОЛИТИКА И ОБЩЕСТВО - HUQUQ, SIYOSAT VA JAMIYAT
ILMIY-TAHLILIY JURNAL
Issue - 11(2026) / ISSN 3030-3052 Available at www.uznauka.uz

Аннотация. В статье исследуются правовые механизмы выявления, сохранения и возврата активов должника в ситуациях, когда бенефициарный владелец скрыт, а соответствующие лица, документы и имущество находятся в разных юрисдикциях. Автор обосновывает, что эффективный возврат активов требует юридически взаимосвязанной последовательности: сбора информации, временной защиты, установления правообладателя и исполнимого средства защиты. Сведения о бенефициарном владении могут раскрыть фактический контроль и стать основанием для дальнейшего расследования, однако сами по себе не доказывают, что конкретное имущество входит в конкурсную массу. С применением доктринального и сравнительного методов анализируются типовые законы ЮНСИТРАЛ о несостоятельности, инструментарий 2025 года по отслеживанию и возврату активов, законодательство Европейского союза, отдельные судебные решения, руководства ФАТФ и Закон Республики Узбекистан «О несостоятельности». Выявлены три повторяющихся недостатка: смешение контроля и вещного права, восприятие признания производства как автоматического исполнения решений о возврате активов и недостаточная координация между механизмами несостоятельности и уголовно-правовым возвратом активов. Предложен дифференцированный доказательственный подход, при котором требуемый стандарт доказывания зависит от того, добивается ли заявитель получения информации, временного ограничения или окончательного возврата. Для Узбекистана предлагаются специальная правовая основа признания и судебного сотрудничества, прямые нормы о доступе иностранных представителей к информации, скоординированная временная защита и отдельный порядок исполнения судебных решений,

LAW, POLICY AND SOCIETY ПРАВО, ПОЛИТИКА И ОБЩЕСТВО - HUQUQ, SIYOSAT VA JAMIYAT
ILMIY-TAHLILIY JURNAL
Issue - 11(2026) / ISSN 3030-3052 Available at www.uznauka.uz

связанных с несостоятельностью. Эти предложения опираются на действующие национальные нормы о получении информации, оспаривании сделок и субсидиарной ответственности. Основной вывод состоит в том, что прозрачность приводит к реальному возврату ценности лишь тогда, когда она связана с конкретным основанием иска, правильно определённым применимым правом и эффективным форумом исполнения.

Ключевые слова: трансграничная несостоятельность; бенефициарное владение; отслеживание активов; обеспечительные меры; коллизия законов; иностранные судебные решения; оспаривание сделок; судебное сотрудничество; Узбекистан.

INTERNATIONAL LEGAL MECHANISMS FOR DEBTOR ASSET RECOVERY IN CROSS-BORDER INSOLVENCY INVOLVING CONCEALED BENEFICIAL OWNERSHIP AND CONFLICTS OF LAWS

Sadullaev Bokhodir
Senior Consultant, Secretariat of the Plenum and the Presidium, Central Apparatus of the Supreme Court of the Republic of Uzbekistan
E-mail: brandonclaudemccallester@gmail.com

Abstract. This article examines the legal mechanisms available to identify, preserve and recover debtor assets where beneficial ownership is concealed and relevant persons, records and property are dispersed across jurisdictions. It argues that effective recovery requires a legally connected sequence of information gathering, provisional protection, determination of entitlement and enforceable relief. Beneficial ownership information can reveal control and support further

LAW, POLICY AND SOCIETY ПРАВО, ПОЛИТИКА И ОБЩЕСТВО - HUQUQ, SIYOSAT VA JAMIYAT
ILMIY-TAHLILIY JURNAL
Issue - 11(2026) / ISSN 3030-3052 Available at www.uznauka.uz

investigation, but does not itself establish that particular property belongs to the insolvency estate. The study applies doctrinal and comparative methods to the UNCITRAL insolvency model laws, the 2025 asset tracing and recovery toolkit, European Union legislation, selected judicial decisions, FATF guidance and Uzbekistan's Law "On insolvency". The analysis identifies three recurring weaknesses: confusion between control and proprietary entitlement, reliance on recognition of proceedings as though it automatically enforced recovery judgments, and insufficient coordination between insolvency remedies and criminal asset recovery. It develops a differentiated evidentiary approach under which the showing required depends on whether the applicant seeks information, temporary restraint or final recovery. For Uzbekistan, the article proposes a dedicated framework for recognition and judicial cooperation, express rules on foreign representatives' access to information, coordinated interim protection, and a separate route for enforcing insolvency-related judgments. These proposals build on existing domestic information, avoidance and subsidiary-liability provisions. The central conclusion is that transparency produces recoverable value only when it is connected to an identifiable cause of action, the correct applicable law and an effective enforcement forum.

Keywords: cross-border insolvency; beneficial ownership; asset tracing; interim relief; conflict of laws; foreign judgments; avoidance actions; judicial cooperation; Uzbekistan.

INTRODUCTION. An insolvency representative may discover who directs an offshore company and still be unable to recover the money held in its account. The account holder may be a separate legal person; the transfer into the account may be disputed; the records may be located in a third country; and a judgment

Issue - 11(2026) / ISSN 3030-3052 Available at www.uznauka.uz

obtained in the insolvency forum may require recognition where execution is sought. These are different legal obstacles. Treating them as a single problem of financial secrecy encourages applications that establish suspicion without establishing the applicant's entitlement to the remedy requested.

Concealment also changes the timing of insolvency administration. A representative often needs information to identify an asset before seeking protection, while the request for information may alert the person capable of moving it. Delay can therefore reduce the practical value of a legally sound claim. The answer must accommodate urgent judicial intervention while preserving the distinction between protecting a disputed asset and deciding who owns it. This distinction is especially important where nominees, affiliated companies or trusts hold property that creditors attribute to the debtor.

For Uzbekistan, the starting point is the Law of the Republic of Uzbekistan No. LRU-763 of 12 April 2022 "On insolvency". Article 23 provides information-gathering powers for judicial managers; Article 47 addresses measures securing creditors' claims; Articles 63–68 regulate invalid transactions and their consequences; and Articles 69–70 address management of the debtor's affairs and subsidiary liability. These provisions offer a domestic foundation for recovery. Their existence does not establish how every corresponding power can be exercised abroad [1].

The research question is how these domestic remedies can be connected to international mechanisms without treating foreign recognition, beneficial ownership disclosure or judicial cooperation as substitutes for proof of a claim. The article's contribution is a remedy-specific approach: each application should identify its legal basis, evidentiary threshold, territorial reach and effect on third

Issue - 11(2026) / ISSN 3030-3052 Available at www.uznauka.uz

parties. The 2025 UNCITRAL Toolkit and Background Notes provide a timely framework for considering information measures, protection and recovery together, while remaining guidance rather than a directly enforceable international instrument [2].

MAIN PART (DISCUSSION AND RESULTS). Literature review. The study examines the 1997 UNCITRAL Model Law on Cross-Border Insolvency (MLCBI) [3], the 2018 Model Law on Recognition and Enforcement of Insolvency-Related Judgments (MLIJ) [4], the 2019 Model Law on Enterprise Group Insolvency [5], the 2009 Practice Guide [6] and the 2025 asset tracing and recovery toolkit [2]. European Union instruments [7; 8] and selected English and Privy Council decisions [9–11] are used to test particular propositions about jurisdiction, corporate separateness, information access and enforcement. FATF guidance [12; 13] supplies a transparency benchmark, while the Uzbekistan legislation [1] supplies the basis for national reform proposals.

Research methodology. The research is doctrinal and comparative. The materials were checked on 17 November 2026. The analysis concerns ordinary commercial insolvency and does not attempt to resolve the separate regimes governing banks, other specially regulated entities or consumer debtors. Judicial decisions are examined within their own legal settings; they are not presented as binding on Uzbek courts. The hypothetical example in Section 4.3 is an analytical illustration, not a reported case. No interviews, confidential court records or original recovery statistics are claimed. The proposed framework is evaluated for legal coherence and practical operability, rather than statistically demonstrated effectiveness.

LAW, POLICY AND SOCIETY ПРАВО, ПОЛИТИКА И ОБЩЕСТВО - HUQUQ, SIYOSAT VA JAMIYAT
ILMIY-TAHLILIY JURNAL
Issue - 11(2026) / ISSN 3030-3052 Available at www.uznauka.uz

Results. 3.1. Beneficial ownership and entitlement to estate property. Beneficial ownership performs different functions in different areas of law. In anti-money-laundering regulation, it identifies the natural persons who ultimately own or control a legal person, or relevant persons connected with a legal arrangement. Property law asks a different question: what rights does a particular claimant hold in a particular asset? Insolvency law then determines which rights enter the estate and which transfers can be challenged. FATF's guidance on legal persons and legal arrangements assists identification, but does not create a universal proprietary remedy for insolvency representatives [12; 13].

The distinction is illustrated by Prest v Petrodel Resources Ltd. Although the dispute arose in matrimonial proceedings, its treatment of corporate property is relevant by analogy. The UK Supreme Court did not regard the husband's control of companies as sufficient to make their assets his own. Recovery of the disputed properties depended on the finding that they were held on resulting trust for him. The decision also distinguished concealment of the true facts from the narrow circumstances in which corporate personality may be disregarded [11].

Accordingly, a recovery application should state whether the estate asserts ownership of the asset, seeks restitution following avoidance, or claims compensation from a controller or recipient. A debtor's ownership of shares may bring those shares into the estate without bringing the company's assets into the same estate. Equally, proof that a director diverted company funds may support a claim belonging to the company rather than to the director's personal creditors. Identifying the correct estate is indispensable where the same person controls several entities.

LAW, POLICY AND SOCIETY ПРАВО, ПОЛИТИКА И ОБЩЕСТВО - HUQUQ, SIYOSAT VA JAMIYAT
ILMIY-TAHLILIY JURNAL
Issue - 11(2026) / ISSN 3030-3052 Available at www.uznauka.uz

Information about common control should therefore guide investigation without conclusively resolving ownership. The same discipline applies to enterprise groups. The 2019 UNCITRAL model law supports coordination of group insolvencies; coordination does not by itself merge the property and liabilities of distinct group members. A shared investigation should record which entity funded each transfer, which entity suffered the loss and which representative is entitled to sue [5].

3.2. Access to information and a differentiated evidentiary approach. Tracing should reconstruct both the movement of value and the legal explanation offered for that movement. Useful material includes account instructions, contractual consideration, shareholder records, nominee arrangements and communications showing who authorised a transaction. A beneficial ownership declaration is one source among several. FATF's 2023 guidance favours combining information from companies, registries or equivalent mechanisms and other sources. That approach supports cross-checking declarations against the actual transaction history, rather than treating registration as conclusive [12].

Access must nevertheless rest on lawful authority. Article 21(1)(d) of the MLCBI provides for examination of witnesses, taking evidence and delivery of information after recognition. Article 19(1)(c), by reference to specified Article 21 powers, can support urgent provisional measures while recognition is pending. These provisions operate through the legislation of the receiving State. They do not authorise a representative to bypass foreign bank secrecy, procedural service requirements or legally protected confidentiality merely by presenting a domestic appointment order [3].

LAW, POLICY AND SOCIETY ПРАВО, ПОЛИТИКА И ОБЩЕСТВО - HUQUQ, SIYOSAT VA JAMIYAT
ILMIY-TAHLILIY JURNAL
Issue - 11(2026) / ISSN 3030-3052 Available at www.uznauka.uz

Singularis Holdings Ltd v PricewaterhouseCoopers demonstrates both the value and limits of assistance. A majority of the Privy Council accepted a limited common-law power to obtain information for foreign insolvency administration. Its exercise remained constrained by necessity, the assisting forum's law and public policy, and the powers available in the appointing jurisdiction. The requested relief failed because the material could not have been obtained under the relevant Cayman Islands power. The judgment is therefore authority for qualified assistance, not unrestricted international discovery [10].

This article proposes different showings for different remedies. An information order should require an identified statutory or procedural power, a reasoned connection between the requested records and the debtor's affairs, and a proportionate scope. Temporary restraint should additionally require a legally sufficient prospective claim and evidence of the relevant risk, as required by the forum. Final recovery requires proof of the substantive cause of action under the applicable standard. A registry discrepancy may justify inquiry without being enough to justify a final transfer of ownership. The precise standards remain jurisdiction-specific; this is a proposed organising principle, not a statement that one uniform test already exists.

3.3. Preservation before final determination. The MLCBI distinguishes provisional relief under Article 19 from the effects of recognising a foreign main proceeding under Article 20 and discretionary post-recognition relief under Article 21. Article 19 addresses urgent protection while the recognition application is pending. Article 20 provides specified stays and restrictions, subject to the enacting State's rules. Article 22 requires adequate protection of creditors and other

interested persons, including the debtor, when relief under Articles 19 or 21 is granted, modified or terminated [3].

A preservation order should specify the property or value covered, the persons bound, the duration and the route for review. Where title is disputed, the applicant should explain why restraint is necessary pending adjudication and identify the rule permitting restraint of property held by a third party. A general reference to the debtor's beneficial ownership cannot supply that rule. Applications made without notice should disclose material weaknesses and competing ownership claims, provide for prompt review, and address security or compensation where the forum requires it.

Preservation also requires management. A blanket prohibition on operating a viable business may destroy the value that creditors seek to retain. Depending on the asset and the court's powers, protection may involve a controlled account, an independent custodian, permission for essential expenditure or a supervised sale with proceeds retained pending determination. The applicant should explain who will bear insurance, storage and maintenance costs. The practical need to manage restrained assets, alongside securing them, is addressed in the World Bank's Asset Recovery Handbook [14].

Cross-border applications should be coordinated so that disclosure in one State does not defeat a pending protection request in another. This coordination must respect each court's authority and any lawful confidentiality restrictions. The 2025 UNCITRAL toolkit addresses provisional, ex parte and non-disclosure measures with safeguards; it does not remove the need to establish their availability under domestic law. A representative should distinguish preserving

evidence, restraining disposal and obtaining final delivery of an asset in the proposed orders [2].

3.4. Jurisdiction and the applicable law. The debtor's centre of main interests (COMI), the location of an asset and the location of a person holding information answer different questions. Under Articles 16(3) and 17 of the MLCBI, the registered office supplies a rebuttable presumption relevant to COMI, and recognition as a main or non-main proceeding depends on the statutory criteria. Evidence that an individual secretly controls a company does not automatically relocate that company's COMI. Nor does a foreign main proceeding automatically determine the law governing every proprietary dispute involving the debtor [3].

Regulation (EU) 2015/848 provides a useful, territorially limited comparison. Article 7 generally selects the law of the State opening proceedings for insolvency proceedings and their effects, including avoidance matters under Article 7(2)(m). Article 8 protects specified rights in rem over assets situated in another Member State when proceedings open, without excluding the avoidance actions preserved by Article 8(4). Article 16 supplies a defence where the beneficiary proves both that the detrimental act is governed by another Member State's law and that this law permits no means of challenging it in the relevant case [7].

These provisions show why a representative should analyse the particular claim before choosing the litigation forum. For each asset, the analysis should identify the titleholder, the alleged estate interest, the proposed defendant, jurisdiction over that defendant, the applicable law and the place of execution. A claim to recover land may raise issues different from a claim for compensation

against its former controller. The EU Regulation operates within its own scope; its automatic recognition system cannot simply be assumed to govern proceedings opened in Uzbekistan.

Procedural cooperation also leaves limits on coercion. Even within the EU regime, Article 21(3) requires compliance with the law of the State in which the practitioner acts and does not permit coercive measures without an order from that State's court. Cross-border protocols should therefore allocate requests and preserve competing objections, rather than purport to transfer powers that the participating courts do not possess [6; 7].

3.5. Recognition of proceedings and enforcement of recovery judgments. Recognition of insolvency proceedings and enforcement of a judgment against a third party are separate issues. In Rubin v Eurofinance SA, the UK Supreme Court rejected a special common-law rule for enforcing foreign insolvency avoidance judgments against defendants outside the ordinary jurisdictional bases. It also held that the MLCBI provisions as implemented in Great Britain did not supply the asserted judgment-enforcement power. The case demonstrates why obtaining recognition of the representative's proceeding does not necessarily resolve enforceability of every later recovery order [9].

The 2018 MLIJ addresses that problem through a separate legislative framework. Its definition concerns judgments arising from or materially associated with insolvency proceedings and issued on or after their commencement. It excludes the judgment commencing insolvency and does not treat an interim protection measure as a judgment for its purposes. Articles 7 and 14 preserve public-policy and other refusal grounds, including defects in notice, fraud and specified jurisdictional or protective concerns. These rules require enactment; their

adoption by UNCITRAL is not equivalent to their automatic operation in every country [4].

The practical consequence is that enforcement should be considered when the recovery claim is designed. Proper identification and service of the defendant, a supported jurisdictional basis, findings explaining the transaction and a clear operative order can matter outside the originating State. Where enforcement abroad would be doubtful, bringing the substantive claim in the asset jurisdiction may be preferable. That choice should account for limitation periods, available interim remedies, the cost of proving foreign law and the risk of inconsistent judgments.

3.6. The domestic foundation in Uzbekistan. Uzbekistan's legislation already permits substantial investigative and protective activity. Article 23 authorises a judicial manager to obtain information concerning the debtor's property and financial accounts from specified public and private sources and imposes duties concerning protection of property. Article 47 permits measures securing creditors' claims, including restrictions on transactions without the manager's consent and delivery of certain property to third parties for safekeeping. An international reform should clarify how recognised foreign representatives can request corresponding assistance, rather than overlook these existing functions [1].

The recovery stage also has an established domestic foundation. Articles 63–65 address invalid transactions, including transactions causing losses and specified preferences. Article 67 provides for return of what was received and monetary reimbursement where return in kind is impossible, subject to the statutory conditions. Article 68 identifies persons entitled to challenge transactions and addresses commencement of the limitation period. A foreign element makes

jurisdiction, applicable law and enforcement additional questions; it does not make these substantive issues disappear [1].

Articles 69–70 are particularly relevant to concealed control. Article 69 concerns persons able to direct or otherwise determine the debtor's conduct within the statutory periods. Article 70 addresses subsidiary liability where unlawful conduct causes insolvency and the debtor's property is insufficient, together with specified presumptions and qualifications. A finding that an individual is a beneficial owner should therefore be related to the applicable statutory elements. It should not replace analysis of the conduct, causal relationship, available defences and amount recoverable [1].

UNCITRAL's published MLCBI status table, consulted on 17 November 2026, does not list Uzbekistan. That table is expressly indicative of enactments reported to the Secretariat; absence from it is not proof that no form of cross-border assistance is available under Uzbek law. The reform proposals below accordingly concern an express and coordinated recognition framework. They do not assume that treaties, procedural law or other existing routes are irrelevant [15].

Discussion. 4.1. Cooperation with safeguards against jurisdictional manipulation. The theoretical disagreement between universalist and territorial approaches remains useful. Westbrook supports a coordinated global solution to multinational default, with universalism as the long-term direction. LoPucki's defence of cooperative territoriality stresses the danger that an uncertain corporate home allows debtors to influence the law and priorities governing creditors. Applied to concealed ownership, the first concern favours cooperation across fragmented records and estates; the second requires scrutiny of the claimed forum and protection against strategic relocation [16; 17].

LAW, POLICY AND SOCIETY ПРАВО, ПОЛИТИКА И ОБЩЕСТВО - HUQUQ, SIYOSAT VA JAMIYAT
ILMIY-TAHLILIY JURNAL
Issue - 11(2026) / ISSN 3030-3052 Available at www.uznauka.uz

Mevorach's account of modified universalism examines how institutional and behavioural biases can impede cooperation and how legal design can reduce those obstacles. For the present problem, the relevant inference is that reliable procedures matter alongside a general willingness to cooperate. A foreign court is better placed to grant targeted assistance when the representative explains the claim, supplies relevant records, acknowledges third-party interests and proposes reviewable relief. This article therefore supports cooperation through express powers and reasoned safeguards, without treating modified universalism as an unlimited jurisdictional rule [18].

Transparency also has a proportionality dimension. In WM and Sovim SA v Luxembourg Business Registers, the Court of Justice invalidated the EU requirement for beneficial ownership information to be accessible in all cases to any member of the general public. The decision concerned indiscriminate public access, not a general prohibition on justified access by competent authorities. Directive (EU) 2024/1640 subsequently provides differentiated access rules, including access based on legitimate interest under Article 12. Article 78 set 10 July 2026 as the transposition deadline for the specified access provisions. The Directive is not evidence that implementation is identical in every Member State [8; 19].

For insolvency reform, the preferable approach is purpose-limited access supported by appointment verification, confidentiality duties and an effective challenge mechanism. A representative should explain the connection between the information sought and the proceedings. Foreign status alone should not establish entitlement to unrestricted registry or bank access, while the absence of general

public access should not prevent consideration of a properly grounded judicial request.

4.2. Legislative and institutional proposals for Uzbekistan. First, a dedicated cross-border insolvency chapter should define foreign proceedings and foreign representatives, specify the competent court, and provide an expedited recognition procedure with a narrowly framed public-policy exception. It should distinguish main and non-main proceedings and address competing domestic proceedings. The MLCBI supplies a suitable drafting reference, but the legislation should state the resulting powers explicitly so that courts and affected persons can identify their limits.

Second, recognised foreign representatives should have a clear route to request information and provisional protection. The law should specify the necessary connection to the debtor's affairs, protection of privilege and confidential material, arrangements for third-party compliance costs and available remedies for misuse. It should also permit narrowly justified urgent applications while recognition is pending. These proposals concern statutory access and court-ordered assistance; they do not make all beneficial ownership information publicly available.

Third, the legislation should preserve the separation between identifying control and proving a recovery claim. Judicial guidance should require the applicant to distinguish ownership claims, avoidance actions and subsidiary-liability claims under Articles 69–70. A connected reform should clarify the recognition and enforcement of insolvency-related judgments, drawing on the MLIJ. Implementing only a mechanism for recognising proceedings would leave an important part of the recovery problem unresolved [3; 4].

LAW, POLICY AND SOCIETY ПРАВО, ПОЛИТИКА И ОБЩЕСТВО - HUQUQ, SIYOSAT VA JAMIYAT
ILMIY-TAHLILIY JURNAL
Issue - 11(2026) / ISSN 3030-3052 Available at www.uznauka.uz

Fourth, courts should be able to use cooperation protocols addressing communications, applications for concurrent protection, access to evidence, asset management and reporting. Parties should receive notice of substantive communications and an opportunity to respond, subject to justified exceptions for urgent protective measures. Records of communications should be retained. The UNCITRAL Practice Guide offers examples of cooperation arrangements, but a protocol cannot determine a non-consenting third party's property rights or dispense with jurisdictional requirements [3; 6].

Fifth, insolvency administration and criminal recovery should be coordinated where the facts support both. Articles 53–55 and 57 of the United Nations Convention against Corruption address direct recovery, international cooperation and return of assets in the Convention's setting. They do not make every insolvency representative a requesting State or make every insolvent debtor's asset the proceeds of corruption. The procedural distinction matters even where both systems concern the same property [20].

Brun and Silver's Going for Broke examines insolvency tools as a means of supporting asset recovery in corruption cases. Its relevance lies in the possibility of complementary proceedings with different functions. A domestic coordination mechanism should identify the legal basis and beneficiary of each restraint, preserve legitimate creditors' and victims' claims, and prevent inconsistent disposal or double recovery. Criminal restraint should not be described as an automatic substitute for restoration of value to the insolvency estate [21].

Finally, implementation should be assessed by outcomes that matter to creditors. Relevant indicators include time to decide urgent requests, preservation costs, amounts actually returned, reasons for refusing foreign assistance and net

distributions after recovery expenses. These are proposed indicators, not statistics claimed for Uzbekistan. Funding decisions should compare the likely net benefit of a claim with its litigation and enforcement costs, especially where the estate has limited resources.

4.3. Application to a hypothetical concealed transfer. Assume that an Uzbek company transfers funds to a foreign affiliate under a consulting agreement shortly before insolvency. The affiliate is formally owned by a nominee and uses the money to acquire real estate in another country. Correspondence suggests that the Uzbek company's director instructed the transfers and used the property personally. These facts create investigative leads. They do not, without further analysis, establish that the director or the Uzbek company owns the real estate.

The judicial manager should first preserve the company's records and identify the contract, consideration and payment trail. An application abroad should state the representative's appointment, the available recognition route and the particular information or protection sought. The substantive investigation must test whether services were actually supplied, whether the transaction is avoidable, whether the recipient owes restitution or compensation, and whether a proprietary claim exists under the applicable law. A claim against the director under Articles 69–70 requires its own factual and legal foundation.

If interim restraint is available in the real-estate jurisdiction, the manager should explain the connection between the proposed claim and that asset, together with the relevant dissipation risk. Subsequent recovery must account for any mortgage, bona fide purchaser defence or competing estate interest. Recognition of the Uzbek insolvency proceeding alone does not establish title to the property. Even if the evidence ultimately supports a monetary judgment rather than

Issue - 11(2026) / ISSN 3030-3052 Available at www.uznauka.uz

proprietary recovery, the investigation may still benefit creditors, provided that the defendant has executable assets and the anticipated recovery justifies the costs.

CONCLUSION AND PRACTICAL PROPOSALS. Concealed beneficial ownership obstructs insolvency administration by separating apparent ownership, actual control and evidence of transactions. Disclosure can reduce that separation, but disclosure alone does not establish an estate's entitlement. Effective recovery depends on connecting the information obtained to a substantive claim and to a court capable of granting and enforcing the appropriate remedy. Preserving an asset, recognising proceedings and enforcing a judgment are legally distinct steps, even when they form part of one recovery strategy.

The analysis supports a differentiated evidentiary approach. A court should assess an information request according to its lawful purpose and proportionate scope; assess temporary protection according to the relevant claim and risk; and require proof of the substantive elements before ordering final recovery. This approach permits timely intervention while protecting separate legal personality, bona fide third parties and procedural fairness. It also avoids converting indicators of concealed control into presumptions of ownership that the applicable law does not recognise.

For Uzbekistan, the priority is to connect the existing powers under Articles 23, 47 and 63–70 of the Law "On insolvency" to explicit rules on foreign recognition, assistance and judgment enforcement. The proposed legislation should provide access for foreign representatives, urgent and reviewable protection, a clear route for insolvency-related judgments, and court-to-court cooperation supported by records and notice. Institutional arrangements should address asset management, recovery funding and coordination with criminal proceedings. The

Issue - 11(2026) / ISSN 3030-3052 Available at www.uznauka.uz

practical measure of success is the lawful return of net value for distribution to those entitled to it.

REFERENCES

1. Law of the Republic of Uzbekistan No. LRU-763 of 12 April 2022 “On insolvency”. URL: https://lex.uz/docs/6352957

2. UNCITRAL. Asset Tracing and Recovery in Insolvency Proceedings: UNCITRAL Toolkit and Background Notes. Vienna: United Nations, 2025.

3. UNCITRAL. Model Law on Cross-Border Insolvency (1997) with Guide to Enactment and Interpretation (2013). New York: United Nations, 2014.

4. UNCITRAL. Model Law on Recognition and Enforcement of Insolvency-Related Judgments (2018) with Guide to Enactment. New York: United Nations, 2019.

5. UNCITRAL. Model Law on Enterprise Group Insolvency (2019) with Guide to Enactment. New York: United Nations, 2020.

6. UNCITRAL. Practice Guide on Cross-Border Insolvency Cooperation (2009). New York: United Nations, 2010.

7. Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast). Official Journal of the European Union. 2015; L 141:19–72.

8. Directive (EU) 2024/1640 of the European Parliament and of the Council of 31 May 2024 on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Directive (EU) 2019/1937, and amending and repealing Directive (EU) 2015/849. Official Journal of the European Union. 2024; L 2024/1640.

9. Rubin v Eurofinance SA; New Cap Reinsurance Corporation Ltd v Grant [2012] UKSC 46, 24 October 2012.

10. Singularis Holdings Ltd v PricewaterhouseCoopers [2014] UKPC 36, 10 November 2014.

11. Prest v Petrodel Resources Ltd [2013] UKSC 34, 12 June 2013.

12. Financial Action Task Force. Guidance on Beneficial Ownership of Legal Persons. Paris: FATF, 2023.

13. Financial Action Task Force. Guidance on Beneficial Ownership and Transparency of Legal Arrangements. Paris: FATF, 2024.

14. Brun, J.-P., Sotiropoulou, A., Gray, L., Scott, C., Stephenson, K. M. Asset Recovery Handbook: A Guide for Practitioners. 2nd ed. Washington, DC: World Bank, 2021. DOI: 10.1596/978-1-4648-1616-1.

15. UNCITRAL. Status: UNCITRAL Model Law on Cross-Border Insolvency (1997). URL: https://uncitral.un.org/en/texts/insolvency/modellaw/cross-border_insolvency/status (accessed 17 November 2026).

16. Westbrook, J. L. A Global Solution to Multinational Default. Michigan Law Review. 2000; 98(7):2276–2328.

17. LoPucki, L. M. The Case for Cooperative Territoriality in International Bankruptcy. Michigan Law Review. 2000; 98(7):2216–2251.

18. Mevorach, I. The Future of Cross-Border Insolvency: Overcoming Biases and Closing Gaps. Oxford: Oxford University Press, 2018. DOI: 10.1093/oso/9780198782896.001.0001.

Issue - 11(2026) / ISSN 3030-3052 Available at www.uznauka.uz

19. Court of Justice of the European Union. Judgment of 22 November 2022, WM and Sovim SA v Luxembourg Business Registers, Joined Cases C-37/20 and C-601/20. EU:C:2022:912.

20. United Nations Convention against Corruption. Adopted by General Assembly Resolution 58/4 of 31 October 2003. New York: United Nations, 2004.

21. Brun, J.-P., Silver, M. Going for Broke: Insolvency Tools to Support Cross-Border Asset Recovery in Corruption Cases. Washington, DC: World Bank, 2020. DOI: 10.1596/978-1-4648-1438-9.