

Deep Procedural Analysis of the Judicial Manager’s Role in Simplified Insolvency Proceedings: Legal Doctrines and Judicial Practice

Ayjamal Toksanbaeva

PhD student

Abstract:

This research paper delves into the complex procedural mechanics of simplified insolvency within the economic judicial system of Uzbekistan. It identifies the “procedural compression” phenomenon, where the Judicial Manager is required to bypass the traditional observation and rehabilitation phases to achieve rapid liquidation. The article provides a doctrinal analysis of the Judicial Manager's status as a “procedural trustee”, examining the legal tension between administrative efficiency and the constitutional protection of property rights. By analyzing the “Missing Debtor” and “Asset-less Estate” doctrines, the author proposes a new conceptual framework for the Judicial Manager’s liability and remuneration. The study advocates for the integration of summary judgment principles into insolvency litigation to prevent the abuse of simplified tracks by unscrupulous debtors.

Keywords:

Simplified Insolvency, Procedural Compression, Judicial Manager, Missing Debtor, Forensic Liquidation, Economic Court, Summary Judgment, Fiduciary Duty.

The procedural architecture of simplified insolvency in the Republic of Uzbekistan represents a departure from the traditional staircase model of bankruptcy, characterized by a deliberate compression of legal timelines and stages. In this context, the Judicial Manager’s role is redefined by a functional urgency that necessitates a shift from a neutral administrator to an active forensic investigator. Within the Economic Procedural Code, simplified proceedings are often triggered by the objective impossibility of the debtor’s physical presence or the evident lack of operational assets. This procedural

shortcut, while essential for clearing the market of non-viable entities, places a heightened evidentiary burden on the Judicial Manager. The manager must navigate the fine line between the expedited closure of the case and the legal requirement to conduct a thorough investigation into the causes of the debtor's insolvency, particularly to identify signs of intentional bankruptcy or asset stripping.

A profound procedural specific of these cases is the “presumption of insolvency” which often governs simplified tracks. In standard proceedings, the Judicial Manager conducts a long-term analysis to determine whether the debtor can be saved; in simplified tracks, however, the law presumes a state of terminal financial distress. This shift fundamentally alters the Judicial Manager’s fiduciary duties. Under the “Forensic Liquidation” doctrine, the manager's primary duty is not to the debtor’s continuity, but to the integrity of the credit market. The manager must utilize extraordinary procedural tools, such as seeking court-ordered disclosure from third-party custodians of data (e.g., telecommunication providers and digital asset exchanges), which are often overlooked in traditional liquidation. The legal complexity arises when the Judicial Manager encounters a shell company—a debtor with no physical office or employees—where the procedural challenge is not just managing assets, but reconstructing a fragmented financial history to identify voidable transactions.

Furthermore, the Asset-less Estate (No-Asset Case) remains one of the most contentious areas of simplified insolvency. When a Judicial Manager is appointed to a case where the debtor has zero liquid assets, a procedural paradox emerges: the manager is legally mandated to perform exhaustive investigative duties, yet there is no estate to fund these activities. In developed jurisdictions like Germany or the United States, this is resolved through a public interest funding mechanism or a flat-fee state guarantee. The author argues that for Uzbekistan’s economic courts to maintain the quality of justice in simplified tracks, the procedural status of the Judicial Manager must be

bolstered by a “priority administrative claim” status. This would ensure that the manager’s costs are prioritized even in the most resource-depleted estates, thereby preventing the “procedural apathy” that occurs when practitioners are forced to work without compensation.

Another deep-seated issue is the Judicial Manager's authority to move for “Summary Judgment” within the insolvency process. In cases where the debtor is clearly a missing person or the insolvency is indisputable, the Judicial Manager should have the procedural right to request the Economic Court to bypass certain formal hearings that only serve to prolong the inevitable. This procedural economy must, however, be balanced against the rights of creditors who may not have been properly notified due to the debtor’s absence. The author proposes a Digital Notification Doctrine, where the Judicial Manager’s publication of notice on a centralized electronic platform constitutes legal service, thereby allowing the simplified proceeding to move forward with full judicial legitimacy.

In conclusion, the Judicial Manager’s participation in simplified insolvency is a high-stakes legal balancing act. It requires a professional who can act with the speed of an administrator and the precision of a judge. As Uzbekistan modernizes its Economic Procedural Code, it is essential to codify the specific powers of the manager in missing debtor scenarios and to provide a robust financial framework for no-asset cases. By deepening the procedural independence and investigative authority of the Judicial Manager, the state can ensure that simplified insolvency remains an efficient tool for economic cleansing rather than a legal loophole for fraudulent evasion. The transformation of this institute is a vital component of the broader effort to harmonize Uzbekistan’s commercial laws with global standards of transparency and judicial efficiency.

References:

1. UNCITRAL. (2021). *Legislative Guide on Insolvency Law, Part Five: Insolvency law for micro- and small-sized enterprises*. United Nations.
2. World Bank Group. (2014). *Report on the Treatment of the Insolvency of Natural Persons*. World Bank.
3. German Insolvency Code (Insolvenzordnung - InsO). *Section 304 et seq. (Simplified Insolvency Proceedings)*.
4. Madaus, S. (2020). *The Role of the Insolvency Practitioner in Simplified Procedures for MSEs*. European Insolvency and Restructuring Journal.
5. United States Bankruptcy Code. *11 U.S.C. § 1181–1195 (Subchapter V of Chapter 11)*.
6. McCormack, G. (2017). *Statutory Priorities and Administrative Expenses in Corporate Insolvency*. Journal of Corporate Law Studies.
7. International Association of Insolvency Regulators (IAIR). (2018). *Regulatory Challenges of No-Asset Cases*.
8. European Commission. (2022). *Proposal for a Directive harmonising certain aspects of insolvency law. COM(2022) 702 final*.