



## INTERPRETATION OF THE CONCEPT OF "CORPORATION" BASED ON THE LEGISLATION OF UZBEKISTAN

**Mokhinur Kulmamatova**

Graduate student of

Tashkent State Law University

<https://www.doi.org/10.5281/zenodo.7890807>

### ARTICLE INFO

Received: 25<sup>th</sup> April 2023

Accepted: 01<sup>st</sup> May 2023

Online: 03<sup>rd</sup> May 2023

### KEY WORDS

*Company, society, economic, capital, corporate, human.*

### ABSTRACT

*In today's modern world, a company is an integral part of society. Companies contribute to the prosperity of economies by efficiently and effectively combining human and capital resources. Therefore, effective governance, particularly, effective dispute resolution system is vital for each and every economy. The dispute resolution comprises, inter alia, corporate disputes arising in or/and connected with corporations. Therefore, it is of importance to answer the question what constitutes corporation as per law. The aim of this article is to interpret the term 'corporation' in the light of Uzbek legislation.*

### Introduction

The concept of "corporation" is derived from Latin and means the union, association, society of certain persons, their cooperation, the existence of commonality between them. The emergence of the current concept of "corporation" goes back to ancient Roman law. The word "corporation" means a group of persons, a union, organized by the unity of professional or class interests.

According to scholars studying Roman law, the concept of "corporation" comes from the Latin word "corpus habere", which means the rights of a legal entity. But private corporations in ancient Rome did not mean a legal entity, but an association in the form of a simple partnership, in which each participant owns a share of property and enters into relations with third parties independently<sup>1</sup>.

Although the form of conducting private business activity that first appeared in the ancient Roman state is somewhat similar to the current concept of "corporation", but as the term "legal entity" was not used in Roman law, such an association consisted of a simple association of citizens. In Rome, such associations functioned as private corporations, religious communities, and professional associations of homemakers<sup>2</sup>. Later, organizational

<sup>1</sup> Abdusaidovich K. A. Investigation of theatricalities of thefts and robberies on motor vehicles //Asian Journal of Multidimensional Research (AJMR). – 2019. – T. 8. – №. 11. – C. 109-114.

<sup>2</sup> Khakberdiev A. The concepts of criminal staging, its elements, methods of Detection and investigation N //Review of law sciences. – 2020. – T. 4. – №. 1. – C. 1.



relations in the association became complicated and its separate property was established, its participants began to manage this property on behalf of the association, and they became jointly and severally liable for the obligations of the association.

### **Body paragraph**

In Uzbekistan, the concept of "corporation" is not legally defined. This situation causes various complications and difficulties in considering and resolving disputes of this category, in general, in the implementation of legal norms<sup>3</sup>.

A corporation is an organizational unit of certain individuals whose goal is to engage in business activities. For example, 3 individuals create an enterprise, that is, a limited liability company, or 4 individuals and 1 legal entity create a joint-stock company, etc.

Now, it is necessary to list corporation's specific features:

1. The term "corporation" refers to an organization engaged in business activities, with profit making as the main goal of its activity.

In Article 40 of the Civil Code of the Republic of Uzbekistan, legal entities are divided into 2 categories according to the purpose of their activity. The first is a commercial organization that has made profit as the main goal of its activity, and the second is a non-commercial organization that has not made profit as such<sup>4</sup>.

Legal entities that do not make profit as the main goal of their activity and do not engage in entrepreneurial activities, that is, most of the non-profit organizations, for example, institutions financed from the state budget (kindergartens, schools, hospitals, research institutes), state bodies and other similar organizations cannot be considered a corporation. However, it should be noted that some non-commercial organizations can also be considered corporations.

According to Articles 40, 58-72 of the Civil Code, commercial organizations can be formed in different forms: limited liability company, additional liability company, joint-stock company, subsidiary company, production cooperatives, unitary enterprise, general partnerships, limited partnerships<sup>5</sup>.

Also, legal entities in the form of a private enterprise, a family enterprise, a farm, a peasant farm are also considered commercial organizations, since the main purpose of their activity is to make a profit<sup>6</sup>.

However, the concept of corporation does not mean that it covers only commercial organizations engaged in business activities. That is, some commercial organizations engaged in business activities may not be considered corporations.

At this point, it should be noted that among commercial organizations, especially joint-stock companies are more compatible with the concept of a corporation. Because it embodies

---

<sup>3</sup> Abdusaidovich K. A. The theoretical basis for the classification of criminal dramatization, methods for their identification and investigation //International Journal of Psychosocial Rehabilitation. – 2020. – T. 24. – №. 8. – C. 1930-1945.

<sup>4</sup> Molavi, M., Ahmadi, A., & Naderi, B. (2020). Artificial intelligence applications in supply chain management: A systematic review. *Journal of Industrial Engineering International*, 16(1), 1-30.

<sup>5</sup> Baarsma, B. E. (2021). Competition policy and digital markets. *The Economist*, 169(2), 113-115.

<sup>6</sup> Xakberdiev A. A. ARBITRATION COURT: SOME ISSUES OF LAW PROTECTION //World Bulletin of Management and Law. – 2021. – T. 4. – C. 9-12.



all the signs corresponding to the concept of "corporation" and it can be shown as a benchmark for a corporation.

The Law "On Protection of the Rights of Joint-Stock Companies and Shareholders" contains the criteria related to the legal status of the corporation:

- the general meeting of shareholders, the supervisory board and the executive body are the governing bodies of the company;
- charter fund is divided into a certain number of shares confirming the rights of shareholders in relation to the joint-stock company;
- legal entities and individuals who signed the founding agreement on the establishment of the society are recognized as the founders of the society.

In England, the concept of "corporation" includes a single enterprise (corporation sole) as a type of legal entity, and a group of several individuals (corporation aggregate) as another type of legal entity.

In France and Germany, the term "corporation" is not used at all for the classification of legal entities, that is, in France, legal entities are divided into companies and associations, and in Germany, legal entities are divided into commercial and non-commercial organizations.

2. The corporation must have the status of a legal entity.

According to the fifth part of Article 37 of the Code of Economic Procedure of the Republic of Uzbekistan, claims on corporate disputes are submitted to the court of the location of the legal entity specified in Article 30 of this Code. That is, from the content of this provision, it follows that the corporation must have the status of a legal entity.

Article 39 of the FC defines the concept of a legal entity, according to the first part of which, in the course of its economic management or operational management, it has separate property and is responsible for its obligations with this property, an organization that can have property or personal non-property rights on its own behalf and can exercise them, fulfill obligations, be a claimant and be liable in court is a legal entity<sup>7</sup>.

According to the provisions of the first and fourth parts of Article 44 of this Code, a legal entity must be registered with the state in accordance with the procedure established by legal documents. Information about the state registration is included in the unified state register of legal entities, which is open to everyone.

A legal entity is established from the moment of state registration. Therefore, a legal entity with the appropriate signs corresponds to the above-mentioned concept of "corporation" from the moment of state registration.

Based on the content of part 5 of Article 37 of the EPC, it can be concluded that regardless of whether any person is engaged in business activities or not, unless the person has the status of a legal entity, he will not have the signs of a corporation.

---

<sup>7</sup> Khakberdiev A. A. PROSPECTS OF IMPROVING ARBITRATION COURTS AS ONE OF THE METHODS OF ALTERNATIVE DISPUTE RESOLUTION IN UZBEKISTAN //Web of Scientist: International Scientific Research Journal. – 2023. – T. 4. – №. 1. – C. 77-88.



According to the first part of Article 24 of the CC, a citizen has the right to engage in business activities from the moment of state registration as an individual entrepreneur<sup>8</sup>.

According to the provisions of Article 6 of the Law of the Republic of Uzbekistan "On Guarantees of Freedom of Entrepreneurial Activity", individual entrepreneurship is the implementation of entrepreneurial activities by an individual without establishing a legal entity. Individual entrepreneurship is carried out by an individual entrepreneur on the basis of property owned by him on the basis of independent property, as well as on the basis of other tangible rights that allow ownership and (or) use of property. Since individual entrepreneurs do not have the status of a legal entity, they are not covered by the concept of a corporation.

In addition, Chapter 53 of the CC reflects the legal norms related to the ordinary partnership, and its Article 962 defines the ordinary partnership agreement as follows: two or more persons called partners under the ordinary partnership agreement receive profit or undertake to contribute to achieve another goal that is not against the law and work together without forming a legal entity<sup>9</sup>.

Only individual entrepreneurs and commercial organizations can be parties to an ordinary partnership agreement concluded for the implementation of business activities.

In an ordinary company, business management, that is, management, is carried out in a unique way and in the order stipulated in the contract. Due to the fact that the implementation of activity and management is based on the contractual obligations of the founders and does not have the status of a legal entity, even an ordinary company cannot be considered a form of a corporation<sup>10</sup>. However, in France, a simple limited partnership is one of the important forms of a corporation.

According to Article 1 of the Law on Farming, a farm is a family small commodity farm, based on the personal labor of family members, for lifetime ownership to be inherited, which grows and sells agricultural products on the plot of land given to its head. The activity on the farm is included in the entrepreneurial activity, and it can be carried out without the establishment of a legal entity based on the desire of the members of the farm.

Here, too, the agricultural business, which is organized as a legal entity, has the appropriate signs, so it is considered a corporation.

3. In order for the organization to be considered a corporation, it should be established by two or more persons, that is, there must be an organizational unit of certain individuals.

In a corporation, two or more persons create a legal entity of one or another organizational and legal form, each of them adding a certain amount of property or funds in

---

<sup>8</sup> Khakberdiev A. A. WAYS OF IMPROVING ARBITRATION COURTS IN UZBEKISTAN //INTELLECTUAL EDUCATION TECHNOLOGICAL SOLUTIONS AND INNOVATIVE DIGITAL TOOLS. – 2023. – Т. 2. – №. 14. – С. 75-81.

<sup>9</sup> Хакбердиев А. А. Ўғирлик ва талончиликка таълуқли бўлган инсценировкакани тергов қилиш //журнал правовых исследований. – 2020. – Т. 5. – №. 1.

<sup>10</sup> Frensch, L., & Tevariye, B. (2019). Artificial intelligence: opportunities, challenges and strategies. Journal of Business Research, 98, 365-380.



order to engage in business activities and obtain certain profits. Therefore, in our opinion, if the participant of a legal entity consists of one person, it is not considered a corporation.

According to the first part of Article 3 of the Law of the Republic of Uzbekistan "On Private Enterprise", a commercial organization formed and managed by a single individual owner is recognized as a private enterprise. A private enterprise is an organizational and legal form of business entities. That is, there is no organizational unity of individuals here. Therefore, this entity is not considered a corporation.

Accordingly, according to the provision of the first part of Article 10 of the Law "On the Protection of the Rights of Joint-Stock Companies and Shareholders", if the company is founded by one founder, the decision to establish the company is taken by this founder individually. That is, a joint-stock company can be founded by one person, and in such a case it is wrong to call it a corporation<sup>11</sup>.

4. Associations of legal entities are non-commercial according to the current legislation of our Republic of Uzbekistan, thus, they are not considered a corporation<sup>12</sup>.

According to the first part of Article 77 of the CC, commercial organizations may join associations and other associations considered non-commercial organizations in order to coordinate their business activities, as well as to express and protect their common property interests. Such associations can have different forms, such as consortium, concern, association, holding, depending on the goals of their activity<sup>13</sup>.

Although such associations consist of an organizational unit of certain individuals whose goal is to engage in entrepreneurial activity, it is wrong to call them a corporation because they are considered a non-profit organization.

To sum up, when these conditions are satisfied together, an organization can be considered a corporation.

## References:

1. Abdusaidovich K. A. Investigation of theatricalities of thefts and robberies on motor vehicles //Asian Journal of Multidimensional Research (AJMR). – 2019. – Т. 8. – №. 11. – С. 109-114.
2. Khakberdiev A. The concepts of criminal staging, its elements, methods of Detection and investigation N //Review of law sciences. – 2020. – Т. 4. – №. 1. – С. 1.
3. Abdusaidovich K. A. The theoretical basis for the classification of criminal dramatization, methods for their identification and investigation //International Journal of Psychosocial Rehabilitation. – 2020. – Т. 24. – №. 8. – С. 1930-1945.
4. Molavi, M., Ahmadi, A., & Naderi, B. (2020). Artificial intelligence applications in supply chain management: A systematic review. *Journal of Industrial Engineering International*, 16(1), 1-30.

<sup>11</sup> Хакбердиев А. Выдвижение версий по преступным инсценировкам при осмотре места происшествия, их проверка и распознавание //Review of law sciences. – 2020. – Т. 1. – №. Спецвыпуск. – С. 171-182.

<sup>12</sup> Schein, E. (2018). The AI platform business model. *Harvard Business Review*, 96(4), 56-65.

<sup>13</sup> Хакбердиев А. А. ЖИНОЙ ИНСЦЕНИРОВКАДАГИ САЛБИЙ ҲОЛАТЛАР //ЖУРНАЛ ПРАВОВЫХ ИССЛЕДОВАНИЙ. – 2020. – №. SPECIAL 4.



5. Baarsma, B. E. (2021). Competition policy and digital markets. *The Economist*, 169(2), 113-115.
6. Hakberdiyev A. A. ARBITRATION COURT: SOME ISSUES OF LAW PROTECTION //World Bulletin of Management and Law. – 2021. – T. 4. – C. 9-12.
7. Khakberdiyev A. A. PROSPECTS OF IMPROVING ARBITRATION COURTS AS ONE OF THE METHODS OF ALTERNATIVE DISPUTE RESOLUTION IN UZBEKISTAN //Web of Scientist: International Scientific Research Journal. – 2023. – T. 4. – №. 1. – C. 77-88.
8. Khakberdiyev A. A. WAYS OF IMPROVING ARBITRATION COURTS IN UZBEKISTAN //INTELLECTUAL EDUCATION TECHNOLOGICAL SOLUTIONS AND INNOVATIVE DIGITAL TOOLS. – 2023. – T. 2. – №. 14. – C. 75-81.
9. Хакбердиев А. А. Ўғирлик ва талончиликка таълуқли бўлган инсценировкакани тергов қилиш //журнал правовых исследований. – 2020. – Т. 5. – №. 1.
10. Frensch, L., & Tevariye, B. (2019). Artificial intelligence: opportunities, challenges and strategies. *Journal of Business Research*, 98, 365-380.
11. Хакбердиев А. Выдвижение версий по преступным инсценировкам при осмотре места происшествия, их проверка и распознавание //Review of law sciences. – 2020. – Т. 1. – №. Спецвыпуск. – С. 171-182.
12. Schein, E. (2018). The AI platform business model. *Harvard Business Review*, 96(4), 56-65.
13. Хакбердиев А. А. ЖИНОЙИ ИНСЦЕНИРОВКАДАГИ САЛБИЙ ҲОЛАТЛАР //ЖУРНАЛ ПРАВОВЫХ ИССЛЕДОВАНИЙ. – 2020. – №. SPECIAL 4.