



Recognition Without Enforcement: Cross-Border Insolvency under Jordan's Insolvency Law No. 21 of 2018 and Lessons for Indonesia

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ABSTRACT

This study examined the cross-border insolvency regime introduced by Jordan's Insolvency Law No. 21 of 2018, which made Jordan one of the first Arab states to enact the UNCITRAL Model Law on Cross-Border Insolvency. The problem addressed was that the Model Law is a procedural instrument: it allows a foreign insolvency proceeding to be recognised and assisted, but it does not by itself ensure that the judgments produced within that proceeding can be enforced. The research applied a normative legal method combining statutory, conceptual, and comparative approaches, examining Jordanian primary legal materials alongside the UNCITRAL instruments, European Union insolvency law, and Indonesia's Law No. 37 of 2004. The findings showed that Jordan adopted the four pillars of the Model Law, namely access, recognition, relief, and cooperation, and anchored them in a definition of the centre of main interests that follows the Model Law's logic but omits the element of ascertainability by third parties. The study further found that insolvency-related judgments, such as avoidance and plan-confirmation judgments, remain subject to the general regime for foreign judgments under Law No. 8 of 1952, that enterprise groups are not addressed, and that banks and insurers fall outside the Insolvency Law altogether. It was concluded that Jordan's regime secures recognition but not yet enforcement, and that Indonesia, whose bankruptcy law remains strictly territorial, should adopt the Model Law together with its 2018 companion on insolvency-related judgments rather than in sequence.



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INTRODUCTION

Insolvency law was built for a world in which a debtor, its assets, and its creditors stood within the reach of one court. That world has not existed for some time. A trading company in Amman may hold inventory in Aqaba, receivables in Riyadh, a bank account in Dubai, and a supplier base in Jakarta, and when it fails, each of those assets sits under a different sovereign and a different law of insolvency. The question that follows is simple to state and difficult to answer: whose proceeding governs, and will the courts of other states give it effect?

Two positions have long framed the answer. Universalism holds that a single proceeding in the debtor's home state should administer all of the debtor's assets wherever located, so that creditors are treated equally and value is not destroyed by a race to seize local assets. Territorialism holds that each state administers the assets within its borders for the benefit of the creditors who look to that state (LoPucki, 1999; Westbrook, 2000). Neither has prevailed in pure form. The international compromise, usually described as modified universalism, is embodied in the UNCITRAL Model Law on Cross-Border Insolvency of 1997, which does not unify substantive insolvency law but offers states a

procedural framework for recognising foreign proceedings and cooperating with them (UNCITRAL, 2014; Mevorach, 2018).

Jordan adopted that framework in 2018. Insolvency Law No. 21 of 2018, published in the Official Gazette No. 5514, replaced the bankruptcy provisions that had governed traders and companies for half a century with a modern regime of reorganisation and liquidation, and included a chapter on cross-border insolvency modelled on the UNCITRAL text. UNCITRAL records Jordan as an enacting state as of 2018, placing it alongside Bahrain and Morocco in the same year and ahead of Saudi Arabia, which followed in 2022 (UNCITRAL, 2025). Among Arab states outside the common law financial free zones of Abu Dhabi and Dubai, Jordan was thus one of the earliest to accept the Model Law as part of its general insolvency legislation.

Scholarship on the Jordanian regime exists but is concentrated in Arabic-language journals and has focused on two questions: whether the law adequately defines when an insolvency is international, and whether its cooperation provisions match international standards (Al-Arnaout, 2020; Alsuhaymat & Miknas, 2022). Both studies conclude that the law is broadly aligned with the Model Law. The question that has received less attention is what the Model Law, once adopted, does not do. The Model Law secures recognition of a foreign proceeding and access to relief, but it was not designed to make enforceable the judgments that a foreign insolvency court renders against third parties. That limitation, exposed in the English Supreme Court's decision in *Rubin v Eurofinance SA*, led UNCITRAL to adopt a separate Model Law on the Recognition and Enforcement of Insolvency-Related Judgments in 2018 (UNCITRAL, 2019). Jordan's law was enacted in the same year, but without the companion instrument.

This study therefore aims to map the cross-border architecture of Jordan's Insolvency Law against the Model Law, to identify the structural limits that remain after adoption, and to draw lessons for Indonesia, whose Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations remains territorial and has not adopted the Model Law. The contribution is twofold. Theoretically, the study distinguishes recognition of a proceeding from enforcement of its judgments and argues that a regime achieving only the first remains incomplete. Practically, it offers a sequence of reform that a civil law jurisdiction can follow. The novelty lies in reading an Arab civil law enactment of the Model Law as a reference point for Southeast Asian reform, a comparison that the literature in both regions has not yet made.

RESEARCH METHODS

This study is normative legal research. It treats legal norms as its principal object and proceeds through examination of legal materials rather than field data. The choice follows from the character of the problem, which concerns the content and internal coherence of a statutory regime and its relationship with neighbouring rules on foreign judgments, questions answered from the text and structure of the law.

Three approaches are used. The statutory approach examines the provisions of Jordan's Insolvency Law, in particular the definitions in Article 2, the scope provision in Article 3, and the chapter on cross-border insolvency, read together with Jordan's Law No. 8 of 1952 on the Enforcement of Foreign Judgments. The conceptual approach draws on the doctrine of universalism, territorialism, and modified universalism to assess what the adopted provisions accomplish. The comparative approach places the Jordanian regime beside the UNCITRAL Model Law of 1997, the UNCITRAL Model Law on Recognition and Enforcement of Insolvency-Related Judgments of 2018, Regulation (EU) 2015/848 on insolvency proceedings, and Indonesia's Law No. 37 of 2004.

The primary legal materials comprise Jordan's Insolvency Law No. 21 of 2018, Jordan's Law No. 8 of 1952 on the Enforcement of Foreign Judgments, the Riyadh Arab Agreement for Judicial Cooperation of 1983, the UNCITRAL Model Law on Cross-Border Insolvency with its Guide to Enactment and Interpretation, the UNCITRAL Model Law on Recognition and Enforcement of Insolvency-Related Judgments, Regulation (EU) 2015/848, and Indonesia's Law No. 37 of 2004 together with Article 436 of the *Reglement op de Rechtsvordering*. Secondary materials comprise treatises on cross-border insolvency and journal articles on the Jordanian law published in Arabic and English.

Materials were gathered through documentary study of official texts and scholarly publications, inventoried, and classified according to the four pillars of the Model Law, namely access, recognition, relief, and cooperation, which serve as the analytical framework. Analysis was descriptive and

qualitative with deductive reasoning, using grammatical interpretation to establish the meaning of each provision and systematic interpretation to situate it within the wider law of foreign judgments. Because published Jordanian court decisions applying the cross-border chapter are scarce, the analysis concerns the design of the regime rather than its judicial record, and its conclusions should be read with that limitation in mind.

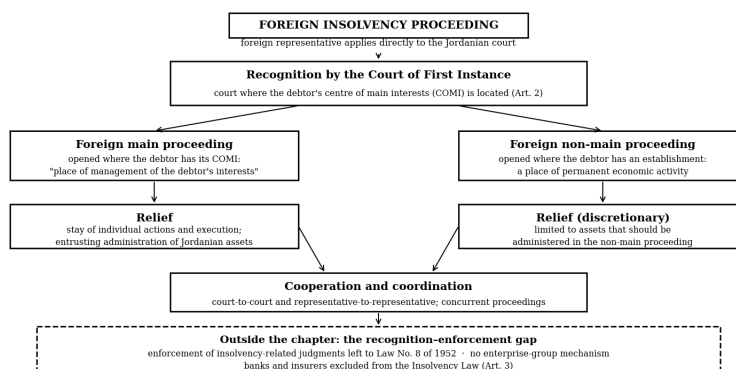
RESULTS AND DISCUSSION

The Adoption of the Model Law in Jordan's Insolvency Reform

Before 2018, insolvency of traders and companies in Jordan was governed principally by the bankruptcy provisions of the Commercial Code No. 12 of 1966 and by the liquidation provisions of the Companies Law. That framework was oriented toward liquidation and the sanctioning of the bankrupt trader, and it contained no mechanism by which a foreign insolvency representative could be recognised. A foreign proceeding could reach assets in Jordan only indirectly, through the general procedure for enforcing foreign judgments, with all the delay and uncertainty that procedure entails.

Insolvency Law No. 21 of 2018 changed the orientation of the system. It defines insolvency in Article 2 as the cessation of, or inability to meet, the payment of debts as they fall due, or a situation in which liabilities exceed assets, and it organises proceedings into a preliminary phase, a reorganisation phase built around a plan agreed with creditors, and a liquidation phase where reorganisation is impossible. Under Article 3 the law applies to legal persons and to natural persons conducting economic activity, while excluding, among others, banks, insurance companies, and public bodies. The competent court is the Court of First Instance within whose territorial jurisdiction the debtor's centre of main interests lies (Jordan Economic Forum, 2021).

The cross-border chapter sits within that architecture. Its vocabulary is established in Article 2, which defines the foreign court, the foreign proceeding, the foreign representative, the foreign main proceeding, the foreign non-main proceeding, the centre of main interests, and the establishment. Each of these terms corresponds to a term in Article 2 of the Model Law, and the chapter itself follows the Model Law in regulating access by foreign representatives, recognition of foreign proceedings, relief, and cooperation with foreign courts and representatives (Al-Arnaout, 2020). Picture 1 sets out the resulting structure and the matters that remain outside it.



Picture 1 The Architecture Of Cross-Border Insolvency Under Jordan's Insolvency Law No. 21 Of 2018

The significance of adoption should not be understated. The Model Law's central achievement is that it replaces discretion with a structured procedure: once the formal conditions are satisfied, the court recognises the foreign proceeding and categorises it as main or non-main, and the consequences of that categorisation follow largely by operation of law. For foreign representatives and creditors, that predictability is worth more than any individual provision. For Jordan, it signalled to investors that the insolvency of a Jordanian debtor, or of a foreign debtor with Jordanian assets, would be handled within a framework recognisable to courts in more than sixty other jurisdictions.

Access, Recognition, and the Centre of Main Interests

The first pillar is access. The Model Law entitles a foreign representative to apply directly to the court of the enacting state, without the intermediation of consular or diplomatic channels, and ensures that foreign creditors enjoy the same rights regarding the commencement of and participation in local proceedings as local creditors (UNCITRAL, 2014). The Jordanian law follows that approach, and the

definition of the foreign representative in Article 2 extends to a person appointed on an interim basis, so that assistance can be sought at the earliest stage of a foreign proceeding, when assets are most exposed to dissipation.

The second pillar is recognition, and here the concept of the centre of main interests does most of the work. A proceeding opened where the debtor has its centre of main interests is a main proceeding; a proceeding opened where the debtor merely has an establishment is a non-main proceeding. Article 2 of the Jordanian law defines the centre of main interests as the place where the debtor manages its interests and conducts its activities, and the establishment as the place where the debtor carries on its ordinary economic activity on a permanent basis (Alsuhaymat & Miknas, 2022).

That definition is sensible, but it departs in one respect from the most developed comparative model. Regulation (EU) 2015/848 defines the centre of main interests as the place where the debtor conducts the administration of its interests on a regular basis and which is ascertainable by third parties, and it limits the presumption in favour of the registered office where the office has been moved within the three months preceding the request. The element of ascertainability matters because the centre of main interests determines which law and which court will govern the creditors' claims; creditors should be able to identify it when they extend credit, not only after the debtor fails. A definition that looks only at where the debtor in fact manages its interests leaves room for a debtor to relocate its management shortly before insolvency and thereby select a more favourable forum. The Model Law itself does not define the concept, but its Guide to Enactment and Interpretation adopts ascertainability as a guiding factor (UNCITRAL, 2014). Table 1 compares the Jordanian regime with the Model Law and with Indonesian law.

Table 1 Comparison Of Cross-Border Insolvency Features Under Jordanian Law, The UNCITRAL Model Law, And Indonesian Law

Aspect	Jordan: Insolvency Law No. 21 of 2018	UNCITRAL Model Law on Cross-Border Insolvency (1997)	Indonesia: Law No. 37 of 2004
Basic approach	Modified universalism through recognition	Modified universalism through recognition	Territorial
Access of foreign representative	Direct application to the Court of First Instance	Direct application to the designated court	No mechanism
Categories of foreign proceeding	Main and non-main, defined in Article 2	Main and non-main	Not recognised
Centre of main interests	Place of management of interests and activities; no ascertainability element	Undefined; Guide adopts ascertainability by third parties	Not relevant; jurisdiction based on domicile
Relief and cooperation	Stay, entrustment of assets, court-to-court cooperation	Arts. 19–21 relief; Arts. 25–27 cooperation	No relief for foreign proceedings
Insolvency-related judgments	General foreign judgments regime, Law No. 8 of 1952	Addressed by separate Model Law of 2018	Unenforceable under Art. 436 Rv
Assets abroad of a local debtor	Coordination through concurrent proceedings	Hotchpot rule in Art. 32	Creditor must return recoveries abroad, Art. 212

Relief and Cooperation in the Jordanian Framework

The third pillar is relief. Under the Model Law, recognition of a foreign main proceeding stays individual actions and execution against the debtor's assets and suspends the debtor's right to dispose of them, while further discretionary relief may be granted on recognition of either a main or a non-main proceeding, including entrusting the administration or realisation of local assets to the foreign representative (UNCITRAL, 2014). The Jordanian law adopts relief of this kind, and it connects naturally with the domestic regime, since the same Court of First Instance that supervises domestic insolvency proceedings and imposes the domestic stay is competent to grant relief in aid of a foreign proceeding.

The discretion attached to that relief carries a safeguard for local creditors. Under Article 21 of the Model Law, before entrusting the distribution of Jordanian assets to a foreign representative, the court must be satisfied that the interests of creditors in Jordan are adequately protected. That safeguard is the point at which territorial concerns re-enter a universalist framework: a Jordanian employee or

supplier whose claim enjoys priority under Jordanian law must not lose that priority merely because the assets are remitted to a foreign estate where the ranking differs. The Model Law leaves the balance to the court, and Jordanian courts will need to develop criteria for striking it.

The fourth pillar is cooperation. The Model Law requires the court to cooperate to the maximum extent possible with foreign courts and representatives and authorises direct communication between them (UNCITRAL, 2014). This is the most innovative feature for a civil law judiciary accustomed to formal letters rogatory. The Jordanian law embraces it, and Al-Arnaout (2020) regards cooperation as the part of the law most closely aligned with international practice. The practical limitation lies elsewhere: direct communication presupposes judges and insolvency representatives who are able and permitted to engage with foreign counterparts in real time, and the absence of published protocols or practice directions leaves the manner of that cooperation undeveloped.

Regional context compounds the challenge. Jordan is party to the Riyadh Arab Agreement for Judicial Cooperation of 1983, which facilitates enforcement of judgments among Arab states but was not designed for collective insolvency proceedings. Of Jordan's principal regional trading partners, only Saudi Arabia, Bahrain, Morocco, and the financial free zones of Abu Dhabi and Dubai have enacted the Model Law (UNCITRAL, 2025). The Model Law does not require reciprocity, which is its strength, but a Jordanian insolvency representative seeking assistance abroad will still find that many neighbouring courts offer no equivalent procedure. Recognition in Jordan is therefore more readily available to foreign proceedings than recognition abroad is to Jordanian ones.

The Recognition–Enforcement Gap and Other Structural Limits

The most significant limit of the Jordanian regime is one it shares with the Model Law as originally conceived. Recognition of a foreign proceeding gives the foreign representative standing and relief, but it does not transform the judgments rendered in that proceeding into judgments enforceable in Jordan. An insolvency proceeding typically produces judgments against third parties: orders setting aside preferential or fraudulent transfers, judgments against directors for wrongful trading, and orders confirming a reorganisation plan that binds dissenting creditors. Each of these is the substance of the insolvency, not a mere incident of it.

The problem became visible in *Rubin v Eurofinance SA*, where the United Kingdom Supreme Court held that avoidance judgments rendered in a United States bankruptcy proceeding could not be enforced in England under the Model Law as enacted there, but only under the ordinary common law rules on foreign judgments, which the defendants had not submitted to. The response was the 2018 Model Law on Recognition and Enforcement of Insolvency-Related Judgments, which provides a dedicated route for such judgments and limits the grounds of refusal (UNCITRAL, 2019). Jordan has not adopted it. In its absence, an insolvency-related judgment must pass through Law No. 8 of 1952 on the Enforcement of Foreign Judgments, whose grounds of refusal include lack of jurisdiction of the foreign court, defective notice to the defendant, fraud, and public policy, and which permits the court to decline enforcement where the state of origin does not enforce Jordanian judgments. A regime that recognises the proceeding without reliably enforcing its outcome secures the form of universalism but not its substance.

Two further limits deserve mention. First, the exclusion of banks and insurance companies under Article 3 means that the failure of a regional financial institution with Jordanian operations falls outside the cross-border chapter altogether and is left to the resolution powers of the sectoral regulators. That is a defensible policy choice, and it mirrors the exclusion the Model Law itself permits, but it removes from the regime precisely the class of debtor most likely to be multinational. Second, the law contains no mechanism for enterprise groups. Multinational businesses are usually organised as groups of separate legal entities, and the Model Law on Enterprise Group Insolvency adopted by UNCITRAL in 2019 addresses the coordination of proceedings concerning group members. Without it, Jordanian courts must treat each subsidiary as a separate debtor with its own centre of main interests, even where the group is managed as a single business.

Read together, these limits show that Jordan's regime is complete as to its first generation and incomplete as to its second. The 1997 Model Law is in place; the 2018 and 2019 instruments that UNCITRAL developed to address its known gaps are not. That is not a criticism peculiar to Jordan, since most enacting states are in the same position. It is, however, the correct frame through which a state considering adoption today should view the Jordanian experience.

Lessons for Indonesia's Territorial Bankruptcy Regime

Indonesia offers a sharp contrast. Law No. 37 of 2004 contains no provision for recognising foreign insolvency proceedings. Article 299 of that law refers procedural matters not otherwise regulated to the general law of civil procedure, and Article 436 of the Reglement op de Rechtsvordering provides that judgments of foreign courts are not enforceable in Indonesia, subject to limited statutory exceptions. A foreign insolvency representative must therefore commence fresh proceedings in an Indonesian commercial court and prove the claim anew, and an Indonesian curator faces equivalent obstacles abroad in states that do not recognise Indonesian proceedings.

The law does acknowledge the existence of foreign assets. Article 212 obliges a creditor who, after the declaration of bankruptcy, obtains satisfaction of its claim from assets of the bankrupt estate located outside Indonesia, and who holds no preferential right over those assets, to reimburse the estate for what it received. The provision performs the function of the hotchpot rule in Article 32 of the Model Law, but it operates only after the fact and only against creditors within the reach of the Indonesian court. It protects equality among creditors without giving the curator any means of reaching the assets directly.

The Jordanian experience suggests three lessons. First, a civil law jurisdiction with no prior tradition of recognising foreign proceedings can adopt the Model Law as a chapter within a comprehensive insolvency statute rather than as separate legislation, which aligns the terminology of the cross-border and domestic regimes from the outset. Second, the definition of the centre of main interests should include the element of ascertainability by third parties and a safeguard against forum shopping shortly before insolvency, a refinement that the Jordanian definition does not contain. Third, and most importantly, the Model Law of 1997 should be adopted together with the 2018 Model Law on insolvency-related judgments, because a state that enforces no foreign judgments at all, as Indonesia does under Article 436 Rv, would otherwise recognise foreign proceedings while refusing effect to everything they produce.

The regional case for reform is also stronger in Indonesia's position than it was in Jordan's. Among Indonesia's neighbours, the Philippines and Singapore have enacted the Model Law, and Singapore has become a regional centre for restructuring precisely because its courts will recognise and assist foreign proceedings (UNCITRAL, 2025). An Indonesian debtor restructured in Singapore can obtain relief there, but a Singaporean or other foreign plan cannot be given effect against Indonesian assets. Adopting the Model Law with its companion instrument would allow Indonesian courts to participate in regional restructurings rather than stand outside them, while the safeguards for local creditors described above would preserve the priority of domestic claims such as employee wages.

CONCLUSION

Jordan's Insolvency Law No. 21 of 2018 adopted the four pillars of the UNCITRAL Model Law on Cross-Border Insolvency, namely direct access for foreign representatives, recognition of foreign main and non-main proceedings, relief, and cooperation with foreign courts, and thereby became one of the first Arab states to integrate the Model Law into its general insolvency legislation; the regime nevertheless secures recognition of foreign proceedings without securing enforcement of the judgments those proceedings produce, since insolvency-related judgments remain subject to Law No. 8 of 1952 with its discretionary reciprocity requirement, while its definition of the centre of main interests omits the element of ascertainability by third parties, enterprise groups are not addressed, and banks and insurers are excluded under Article 3; for Indonesia, whose Law No. 37 of 2004 remains territorial and whose Article 436 Rv denies enforcement to foreign judgments, the appropriate lesson is to adopt the 1997 Model Law as a chapter within a revised bankruptcy statute, to define the centre of main interests with reference to what third parties can ascertain, and to adopt the 2018 Model Law on insolvency-related judgments at the same time rather than in sequence, so that recognition and enforcement are secured together.

REFERENCES

- Al-Arnaout, I. (2020). International cooperation in cross-border insolvency cases according to the Jordanian law: A comparative study. *Dirasat: Shari'a and Law Sciences*, 47(4).
<https://doaj.org/article/825df049d853467eb82d5ce0840e91fb>

- Alsuhaymat, F. M., & Miknas, J. A. A. (2022). The nature of international insolvency and the requirements for its application according to the Jordanian Insolvency Law No. 21 of 2018: An analytical study. *Damascus University Journal for Legal Sciences*, 2(2). <https://journal.damascusuniversity.edu.sy/index.php/legj/article/view/5121>
- Fletcher, I. F. (2005). *Insolvency in private international law: National and international approaches* (2nd ed.). Oxford University Press.
- Insolvency Law No. 21 of 2018 (Jordan). (2018). Official Gazette No. 5514, p. 2640.
- Jordan Economic Forum. (2021). *Policy paper on Insolvency Law No. 21 of 2018*. <https://www.jordaneconomicforum.com/wp-content/uploads/2021/01/Insolvency-Law-No.-21-of-2018.pdf>
- Law No. 8 of 1952 on the Enforcement of Foreign Judgments (Jordan). (1952).
- LoPucki, L. M. (1999). Cooperation in international bankruptcy: A post-universalist approach. *Cornell Law Review*, 84(3), 696–762.
- Mevorach, I. (2018). *The future of cross-border insolvency: Overcoming biases and closing gaps*. Oxford University Press.
- Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast). (2015). *Official Journal of the European Union*, L 141, 19–72.
- Riyadh Arab Agreement for Judicial Cooperation. (1983). League of Arab States.
- Rubin v Eurofinance SA* [2012] UKSC 46.
- UNCITRAL. (2014). *UNCITRAL Model Law on Cross-Border Insolvency with Guide to Enactment and Interpretation*. United Nations.
- UNCITRAL. (2019). *UNCITRAL Model Law on Recognition and Enforcement of Insolvency-Related Judgments with Guide to Enactment*. United Nations. <https://uncitral.un.org/en/texts/insolvency/modellaw/mlj>
- UNCITRAL. (2020). *UNCITRAL Model Law on Enterprise Group Insolvency with Guide to Enactment*. United Nations.
- UNCITRAL. (2025). Status: UNCITRAL Model Law on Cross-Border Insolvency (1997). https://uncitral.un.org/en/texts/insolvency/modellaw/cross-border_insolvency/status
- Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang. (2004). *Lembaran Negara Republik Indonesia Tahun 2004 Nomor 131*.
- Westbrook, J. L. (2000). A global solution to multinational default. *Michigan Law Review*, 98(7), 2276–2328.