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WHEN COURTS LOOK BEHIND THE COMPANY: CORPORATE VEIL PIERCING IN UZBEKISTAN, THE USA, AND THE EU

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Abstract

Limited liability is the cornerstone of modern company law — the principle that separates the investor's personal fortune from the company's obligations. But every legal system recognizes that this separation can be abused, and every system has developed doctrines for deciding when courts may look behind the corporate form and impose personal liability on those who stand behind it. This article examines the doctrine of corporate veil piercing across three legal systems — the United States, the European Union, and Uzbekistan — situating the comparison within the broader contrast between Anglo-Saxon common law and Romano-Germanic civil law traditions. The US approach, rooted in Delaware's equity-based alter ego doctrine, is the most developed and litigated in the world, applying a demanding but flexible standard focused on fraud and injustice. EU civil law systems, led by Germany's statutory Konzernrecht framework, have resisted general veil piercing in favor of codified group liability rules. Uzbekistan, operating within a Romano-Germanic framework but still developing its corporate case law, has limited statutory tools for addressing corporate abuse and relies primarily on general Civil Code provisions whose application to veil piercing scenarios is uncertain. The article identifies the doctrinal gaps, assesses their practical implications for creditors and investors, and offers reform recommendations informed by comparative analysis.

Keywords: Piercing the corporate veil; limited liability; alter ego doctrine; corporate abuse; Uzbekistan corporate law; Delaware; German Konzernrecht; separate legal personality; comparative company law.

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Introduction

The separate legal personality of a company — the principle that a corporation is a legal person distinct from those who own and control it — is one of the great enabling fictions of commercial law. It allows entrepreneurs to take risks with capital they have invested without risking everything they own. It allows investors to diversify across businesses without worrying that the failure of one will bring down the others. And it allows the modern corporate economy to function at a scale and complexity that would be impossible if investors bore unlimited personal liability for every obligation of every company in which they held a share.

The doctrine was stated with classical clarity by the House of Lords in Salomon v. Salomon & Co. Ltd. in 1897: a registered company is a legal person distinct from the persons who form it, and the company's debts are not the debts of its shareholders. [10] That principle has shaped company law across both the common law and civil law worlds ever since. But it has also always been recognized that separate legal personality can be abused — that the corporate form can serve as a shield not for legitimate risk-taking but for fraud, deliberate evasion of obligations, and asset stripping that leaves creditors with claims against an empty shell. The question in every legal system is how to identify and respond to that abuse without undermining the legitimate protection that limited liability provides.

Piercing the corporate veil — the judicial or statutory mechanism by which courts disregard the separate personality of a company and impose liability on those behind it — is the primary answer that Anglo-Saxon legal systems have developed. Civil law systems, including the Romano-Germanic tradition that underpins Uzbekistan's legal framework, have approached the same problem differently, relying more on statutory rules and more specific liability doctrines rather than on general equitable principles. [11]

This article examines how those different approaches play out in the United States, the European Union, and Uzbekistan, and what the comparison reveals about the strengths and gaps in each system.

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II. The Anglo-Saxon Approach: Flexibility and the Alter Ego Doctrine

A. The Delaware Standard

In the United States, the law of corporate veil piercing is primarily state law, and Delaware — where the majority of significant American corporations are incorporated — provides the most influential framework. Delaware courts approach veil piercing as an equitable remedy, available only in extraordinary circumstances where adherence to the corporate form would produce injustice.

The controlling standard was articulated by the Delaware Supreme Court in Pauley Petroleum Inc. v. Continental Oil Co. in 1968: veil piercing may be done only in the interest of justice, when such matters as fraud, contravention of law or contract, public wrong, or where equitable considerations among members of the corporation require it, are involved. [5] As the court later elaborated in Geyer v. Ingersoll Publications Co., the plaintiff must typically establish two things: first, that the corporation and the party to be held liable operated as a single economic entity; and second, that an overall element of injustice or unfairness is present. [6]

Delaware courts apply this standard with deliberate conservatism. Failure alone — a subsidiary that went bankrupt and left creditors unpaid — does not justify piercing the veil. Poor business decisions, even very poor ones, do not justify it. What is required is something more: evidence that the corporate form was misused to perpetrate fraud, or that the company operated as a mere instrumentality of its owner with no genuine independence. [1] The Supreme Court has confirmed in United States v. Bestfoods that a parent corporation is not liable for the acts of its subsidiaries simply by virtue of ownership and control, reinforcing the presumption of separate legal personality that veil piercing must overcome. [13]

The practical result is that veil piercing claims in Delaware succeed relatively rarely. Courts demand substantial evidence of abuse — commingling of assets, failure to maintain corporate formalities, undercapitalization combined with fraudulent conduct, or systematic use of the corporate form to evade specific obligations. [2] This demanding standard reflects a deliberate policy choice: weakening the shield of limited liability would chill investment and entrepreneurship in ways that would impose costs on the broader economy. The

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protection of creditors is important, but not so important that it justifies undermining the foundations of the corporate form.

B. Variation Across US Jurisdictions

While Delaware's standard is the most influential, other US jurisdictions apply the doctrine with varying degrees of stringency. California imposes a somewhat lower bar, applying an alter ego analysis that considers factors such as commingling of funds, failure to observe corporate formalities, identical ownership, and representation of the corporation as an alter ego in business dealings. [9] Texas requires actual fraud for piercing the veil of a limited liability company and demands that the fraud produce a direct personal benefit to the member — one of the most demanding standards in the country. Some states, including California in certain circumstances, also permit reverse veil piercing, in which a creditor of an individual shareholder seeks to access corporate assets to satisfy personal debts — a remedy that most jurisdictions reject. [15]

III. The Romano-Germanic Tradition: Statutory Rules and the EU Framework

A. Germany: Konzernrecht Instead of Veil Piercing

German company law has taken a fundamentally different path from the Anglo-Saxon alter ego doctrine. Rather than developing a general equitable doctrine for disregarding separate legal personality, German law created an elaborate statutory framework — the Konzernrecht provisions of the Aktiengesetz (Stock Corporation Act) — specifically designed to regulate the relationship between controlling and controlled companies within a corporate group. [8]

The Konzernrecht framework distinguishes between different types of corporate groups and applies different rules to each. Where a controlling company has entered a formal domination agreement (Beherrschungsvertrag) with a controlled company, the controlled company's management is obligated to follow the controlling company's instructions, but the controlling company must compensate the controlled company for any losses and bear responsibility to minority shareholders in the controlled company. Where no formal agreement exists but de facto control is exercised, the controlling company is liable for losses

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caused by its influence on the controlled company's management if it cannot show that the action would have been taken by a prudent, responsible manager. [8]
What is notable about this approach is that Germany never really developed a general doctrine of veil piercing in the Anglo-Saxon sense. The only remaining case of true shareholder liability through disregard of corporate personality in German law is the inextricable commingling of assets between the shareholder and the company (Vermögensvermischung) — a very specific situation that goes beyond mere control. [15] All other cases of corporate group liability are handled through the statutory Konzernrecht framework rather than through general equitable principles. This reflects the Romano-Germanic tradition's preference for codified, specific rules over general equitable doctrines.

B. The EU Framework: Harmonization and Its Limits

At the EU level, Company Law Directive 2017/1132 harmonizes aspects of company law across member states but does not create a uniform veil piercing doctrine. [7] EU law reinforces the principle of limited liability within corporate groups — the Directive codifies rules protecting the separate legal personality of companies within groups — without providing a harmonized basis for disregarding that personality in cases of abuse.
Comparative analyses of EU member state approaches reveal a consistent pattern: civil law systems pierce veils primarily for creditor protection in insolvency contexts, with specific statutory triggers, rather than through broad equitable doctrines applicable to torts or contracts. Dutch courts have restricted direct veil piercing to very exceptional circumstances, with courts rejecting claims absent fraud in over 80 percent of reviewed cases. [9] French courts similarly apply the doctrine narrowly, focusing on asset commingling and confusion of patrimony. The result is lower litigation volumes than in the United States and more predictable outcomes for corporate groups operating across the EU — at the cost of leaving some categories of creditor harm without adequate remedy.

IV. Uzbekistan: An Emerging Framework

A. The Statutory Foundation

Uzbekistan's approach to corporate veil piercing is anchored in the general provisions of the Civil Code rather than in a specific veil piercing doctrine. Article

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43 establishes the separate legal personality of legal entities, and the provisions on subsidiary and dependent companies in Articles 67 and 68 address, in limited terms, the liability of controlling entities for obligations of the companies they control. [3]

Under Article 67, participants in a subsidiary company have the right to demand compensation from the main company for losses caused through its fault to the subsidiary. [3] This provision addresses the intragroup relationship from the subsidiary's perspective — protecting the subsidiary's participants from controlling company misconduct — but does not directly address the position of external creditors seeking to reach the controlling company when the subsidiary cannot pay. The Law of the Republic of Uzbekistan No. 370 of 6 May 2014, On Joint-Stock Companies and Protection of Shareholders' Rights, provides some elaboration of group company relationships in the listed company context, [12] but the framework is less comprehensive than Germany's Konzernrecht and more reliant on general principles than the Anglo-Saxon equitable doctrine.

B. The Practical Challenge

In practice, courts and practitioners in Uzbekistan confronting a case where corporate abuse is suspected — where a company has been stripped of assets, where corporate formalities have been systematically ignored, or where a controlling party has used a subsidiary purely as an instrument for its own purposes — must work with general Civil Code principles on abuse of rights and liability for causing harm rather than with a developed veil piercing doctrine. [4] The result is legal uncertainty: the outcome of any given case depends heavily on how individual judges apply general principles to specific facts, in the absence of the developed body of precedent that guides courts in Delaware or the statutory certainty that guides courts in Germany.

This uncertainty has practical consequences for creditors and foreign investors. Creditors extending credit to Uzbek subsidiaries of corporate groups face greater uncertainty about their ability to reach the parent company in cases of subsidiary default. Foreign investors acquiring stakes in Uzbek companies with complex group structures face uncertainty about the extent to which their investment is exposed to liabilities of affiliated entities. And the absence of clear rules creates

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opportunities for sophisticated actors to structure around whatever protections do exist, a problem that is particularly acute in a jurisdiction with developing enforcement capacity. [14]

V. What Each System Offers the Others

The comparison reveals a genuine trilemma in corporate veil piercing doctrine. The Anglo-Saxon equitable approach — exemplified by Delaware — offers maximum flexibility and can reach genuinely abusive conduct through a case-by-case judicial analysis. But it produces litigation uncertainty, applies inconsistently across jurisdictions, and is expensive to invoke. The Romano-Germanic statutory approach — exemplified by Germany's Konzernrecht — offers predictability and clear rules, but requires complex advance structuring through formal agreements and leaves some categories of abuse without adequate remedy. And the underdeveloped approach — where general principles substitute for specific doctrine — creates maximum uncertainty for everyone involved.

For Uzbekistan, the appropriate path forward is not simply to transplant Delaware's alter ego doctrine into a civil law system where it would sit awkwardly. The Romano-Germanic tradition's preference for codified, specific rules is better suited to Uzbekistan's legal culture and judicial capacity than a general equitable doctrine that requires sophisticated judicial discretion to apply consistently. What Uzbekistan needs is a statutory framework — along the lines of the German Konzernrecht provisions, adapted to Uzbekistan's specific corporate forms — that addresses the core scenarios of corporate abuse with specific, predictable rules. [8][11]

At minimum, three legislative developments would meaningfully improve the framework. First, a clear statutory provision addressing the liability of controlling shareholders for subsidiary obligations in cases of asset commingling and abuse of the corporate form. Second, specific rules governing the liability of controlling companies in corporate groups for losses caused to subsidiaries through the exercise of dominant influence. Third, procedural provisions making it easier for creditors to obtain information about the internal structure of corporate groups, without which establishing the facts necessary for any veil piercing claim is practically very difficult. [9][12]

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VI. Conclusion

The corporate veil is one of the most litigated boundaries in commercial law, and every developed legal system has had to define where it lies and when it can be crossed. The Anglo-Saxon common law tradition has produced the most flexible and most litigated approach, built around equitable principles that give courts discretion to reach abusive conduct at the cost of doctrinal uncertainty. The Romano-Germanic civil law tradition has produced more codified and more specific approaches, at the cost of leaving some gaps that statutory specificity cannot easily fill. [11]

Uzbekistan sits within the Romano-Germanic tradition but has not yet developed the specific statutory framework that tradition requires to address corporate veil piercing effectively. The Civil Code's general provisions on separate legal personality, subsidiary liability, and abuse of rights provide a starting point, but not the developed doctrine that creditors, investors, and courts need. [3][4]

The comparative lesson is straightforward: doing nothing is not a neutral position. In the absence of clear rules, corporate abuse that would be reached by alter ego doctrine in Delaware or by Konzernrecht in Germany will go unaddressed in Uzbekistan — with real consequences for creditors who lent in good faith and foreign investors who assumed that the corporate form they were dealing with would not be easily manipulated. Developing a coherent framework for addressing these cases is not merely an academic exercise. It is a practical requirement for a corporate law system that aspires to support serious commercial activity at an international level. [1][12]

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