

Cross-border recognition of insolvency proceedings

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As a result of the numerous cross-border structures involving Cyprus, the need to recognise foreign insolvency proceedings in Cyprus is becoming more common.

Insolvency proceedings initiated in the European Union can be recognised in Cyprus through the EU Recast Insolvency Regulation (2015/848).

In the absence of legislative framework providing for the recognition of foreign insolvency proceedings in Cyprus, such recognition may be achieved under the principles of common law.

The power to recognise foreign insolvency proceedings under common law was recognised in the first-instance case of *Eitan Erez v Dr Borris Bannai* (Appl 1535/2011, 1 February 2012). However, in the said case, by applying the principles of common law, the court refused to recognise insolvency proceedings that had been initiated abroad because:

- the respondents to the proceedings were not Cyprus residents; and
- the applicant had failed to sufficiently prove that they held assets within the jurisdiction.

While the framework for recognising cross-border insolvencies originating outside the European Union remains largely untested in Cyprus, the aforementioned case shows the Cyprus courts' willingness to follow the principles of common law in line with current commercial realities.

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