

The Concept and Characteristics of Bankruptcy Procedures for Business Entities With the Status of a Legal Entity

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ABSTRACT

The article analyzes the issues of bankruptcy procedures, is considered as one of the ways to reform an enterprise. The concept of "bankruptcy procedure" must include a general and special dialectical unity. It is concluded that the basic universality of the "bankruptcy procedure" is the first feature, because it describes any activity carried out in accordance with bankruptcy law and that bankruptcy procedures for legal entities can be divided into two groups: solvency restoration procedures and liquidation proceedings.

KEYWORDS: *bankruptcy, bankruptcy procedures, solvency, judicial reorganization, external management, liquidation proceedings, measures, measure.*

The concept of "bankruptcy procedures" has been used for several years in regulatory legal acts and legal literature to describe the legal institution of bankruptcy (economic insolvency) of a legal entity¹. In particular, in the Law of the Republic of Uzbekistan dated August 28, 1998 No. 668-I "On Bankruptcy", in the Law of the Republic of Uzbekistan dated April 24, 2003 No. 474-II "On Bankruptcy" and in other regulatory legal acts, the concept of "bankruptcy procedure" is encountered. In the Law of the Republic of Uzbekistan dated May 5, 1994 No. 1054-XI "On bankruptcy", the term "extrajudicial procedure" is used (Section II. Extrajudicial procedures "(Articles 4-6).

In the legal literature, there are several directions for defining the concept of "bankruptcy procedure"². With a broader approach, bankruptcy procedures can be considered as one of the ways to reform an enterprise. Some researchers associate the concept of "procedure" with the stage of regulation of legal relations of bankruptcy and describe it as a stage of development of legal relations of bankruptcy, characterized by specific goals, legal content, stages and consequences³. However, such definitions do not define the features of this legal concept.

According to researchers who adhere to a different approach to the issue, bankruptcy procedures are understood as a single regulatory system in the context of the inability of an insolvent debtor with signs of bankruptcy to restore his solvency⁴. In our opinion, such a description is official and does not

¹. Ibratova F., Esenbekova F. GENESIS AND EVOLUTION OF LEGISLATION ON CONCEPTUAL PROCEDURES IN THE REPUBLIC OF UZBEKISTAN //Polish Journal of Science. – 2021. – №. 38-2. – С. 20-24.

². Ибратова, Ф. Б. (2015). Гражданско-правовые проблемы признания банкротами индивидуальных предпринимателей в Республике Узбекистан. *Вопросы современной юриспруденции*, (5-6 (47)).

³. Ибратова, Ф. Б. (2019). ПРАВОВЫЕ ПРОБЛЕМЫ МИРОВОГО СОГЛАШЕНИЯ ПРИ РАССМОТРЕНИИ ДЕЛ О БАНКРОТСТВЕ В ЭКОНОМИЧЕСКИХ СУДАХ РЕСПУБЛИКИ УЗБЕКИСТАН. In *ПЕРСПЕКТИВЫ РАЗВИТИЯ НАУКИ В СОВРЕМЕННОМ МИРЕ* (pp. 163-170).

⁴. Ibratova, F. B., Kirillova, E. A., Smoleń, R., Bondarenko, N. G., Shebzuhova, T. A., & Vartumyan, A. A. (2017). Special features of modern legal systems: cases and collisions.

reflect the specifics of the legal phenomenon of "bankruptcy proceedings", since it does not include the signs that determine the status of the revealed bankruptcy.

It should be noted that Swedish law provides a legal definition of the term "bankruptcy procedure", in which "bankruptcy procedure" means a special process in which the debtor's property is monitored and distributed among creditors in accordance with the amount of claims against the debtor.

The concept of "bankruptcy procedure" is clearly defined in the concept of VS Belykh, AA Dubinchin and MK Skurovsky, according to which bankruptcy procedure is the application of measures provided for by bankruptcy legislation to a debtor with signs of bankruptcy⁵. In our opinion, the above description does not contain all the main features of the bankruptcy procedure, reflecting the specifics of this concept, and is considered optimal. A simplified explanation of the concept of bankruptcy proceedings leads to a meaningful definition of certain measures that must be taken in the process of declaring a debtor bankrupt⁶.

To define the concept of "bankruptcy procedure", it is necessary to distinguish its lexical meaning with other similar concepts defined in the bankruptcy law⁷.

The meaning of the concept "procedure" (from the French word "proc'edure", from the Latin word "procedure" - means to move forward, move, progress) means a sequence of actions, formally defined to perform or complete a task.

The concept of "procedure" can be divided into two types: extrajudicial procedure and judicial procedure⁸.

In addition to the term "procedure" in the 2003 Bankruptcy Law, the term "measures" is used (in particular, article 32 "Basic measures of pre-trial resolution", and article 109 "Measures to restore the debtor's solvency"). The meaning of the term "measure" means an action or a set of actions to achieve a goal⁹.

In the regulatory legal acts on bankruptcy, these terms have a slightly different meaning. If Article 28 of the 2003 Bankruptcy Law clearly states that the bankruptcy procedure is regulated by separate chapters, then the "measures" are only specified and not defined in the legislation: in particular, measures to secure creditors' claims (Article 46), the main measures of pre-trial resolution (article 32). Thus, the concepts of "measures" and "bankruptcy procedure" can be distinguished.

To combine the concepts of "measures" and "bankruptcy procedure" into one group, you can use the term "legal measures" implemented in the legal institution of bankruptcy¹⁰.

Events are organized activities aimed at achieving a goal. Since the measures are only targeted actions, it is necessary to define the goals of the bankruptcy. Objectives describe the overall results

⁵. Бельх, В. С. (1995). Концепция банкротства: законодательная модель и реальность. *Российский юридический журнал*, (3), 37-48.

⁶. Ibratova F. Legal Problems of the Concepts Legality, Justification and Justice by Judicial Acts //Middle European Scientific Bulletin. – 2021. – Т. 16.

⁷. Ibratova F. BANKRUPTCY OF A LIQUIDATED BUSINESS ENTITY: PROBLEMS AND SOLUTIONS //Norwegian Journal of development of the International Science No. – 2021. – Т. 58. – С. 45.

⁸. Ibratova F. Bankrotlik to 'g 'risidagiishlardaprokurorishtiroki.

⁹. Довлатова, Г. П., Ибратова, Ф. Б., Карашенко, В. В., Макеева, Е. И., Мирославская, М. Д., Пайкович, П. Р., &Харлампенков, Е. И. (2021). Инновации, тенденции и проблемы в области экономики, управления и бизнеса.

¹⁰. Барышова, М. В., Белый, В. С., Глуценко, В. М., Ибратова, Ф. Б., Новиков, А. Н., &Пронькин, Н. Н. (2019). Социальное предпринимательство: научные исследования и практика.

that bankruptcy law seeks to achieve¹¹.

The main objectives of the bankruptcy law are to satisfy the claims of creditors on non-fulfillment by the debtor of his monetary obligations and incomplete fulfillment of obligations on obligatory payments, to protect the interests of owners and creditors, the debtor's exit from the crisis and the transition to sustainable activities, efficient management and use of resources, creating conditions for active investment processes.

Most often in the scientific literature on bankruptcy there is a situation when the main goal of bankruptcy legislation is the proportional satisfaction of creditors' claims. These stated objectives should not be construed as the sole purpose of presenting the results required by the application of bankruptcy law¹². It should be noted that over the history of the development of the institution of bankruptcy, the number of rehabilitation principles aimed at restoring the solvency of the debtor enterprise has increased.

According to V.F. Popondopulo, the purpose of bankruptcy legislation is to prevent damage to the property of an insolvent debtor and equal distribution of the debtor's property among creditors. However, if we agree with V.F. Popondopulo, then the procedures of rehabilitation procedures will also be aimed not only at the financial recovery of the debtor, but also at the fair satisfaction of creditors' claims without taking into account the interests of the debtor and the interests of the debtor cannot be taken into account¹³.

The concept of "bankruptcy procedure" must include a general and special dialectical unity¹⁴. Based on this methodological principle, we propose the following proposal. The basic universality of "bankruptcy proceedings" is the first feature because it describes any activity carried out in accordance with bankruptcy law. All other signs of bankruptcy should be considered as having special and distinctive features, since they distinguish the bankruptcy procedure from other actions carried out in the bankruptcy process¹⁵.

Based on the analysis of the mentioned signs of bankruptcy, the concept of bankruptcy procedure can be formulated. A bankruptcy procedure is a series of actions that are formally applied by bankruptcy legislation to a debtor who has signs of bankruptcy or is declared bankrupt in order to satisfy creditors and get out of a state of economic insolvency¹⁶.

The above analysis shows that the concept of "bankruptcy procedures" is multifaceted, and the legislation identifies a number of bankruptcy procedures, therefore it is important to classify all instruments by specific types, groups¹⁷.

According to the Bankruptcy Law, the following bankruptcy procedures are applied in bankruptcy proceedings of a legal entity - a debtor: supervision, judicial resolution, external management,

¹¹. Ibratova F. Problems of a settlement in bankruptcy cases in economic courts //Norwegian Journal of Development of the International Science. – 2019. – №. 28-3.

¹². Дудник, Д. В., Ермолаев, К. Н., Ибратова, Ф., Миронов, Л. В., Окюлов, О., Опрышко, Е. Л., ... & Шер, М. Л. (2021). Научные основы финансовой, кредитно-денежной и ценовой политики.

¹³. Попондопуло, В. Ф. (2014). *Банкротство. Правовое регулирование*. "Издательство "Проспект"".

¹⁴. Ibratova F. TERMS IN CIVIL LAW AND THEIR APPLICATION IN LEGAL PROTECTION OF CITIZENS IN THE REPUBLIC OF UZBEKISTAN.

¹⁵. Okyulov O. et al. LEGAL ISSUES OF JUDICIAL ACTS IN CIVIL PROCEEDINGS UNDER THE LEGISLATION OF THE REPUBLIC OF UZBEKISTAN //ZnanstvenaMisel. – 2021. – №. 58. – С. 14-17.

¹⁶. Ibratova F., Khabibullaev D. LEGAL ISSUES OF SIGNS OF BANKRUPTCY AND THE REALIZATION OF THE RIGHTS OF WORKERS IN CASES OF BANKRUPTCY OF EMPLOYERS UNDER THE LAWS OF THE REPUBLIC OF UZBEKISTAN //ZnanstvenaMisel. – 2019. – №. 11-2. – С. 55-61.

¹⁷. Esenbekova, F. T., Okyulov, O., Sh, R., &Ibratova, F. B. (2021). Features of the approval of the world agreement by the economic court: practice and theory. *InternationalJournalofProfessionalScience*, 5, 90-96.

liquidation proceedings.

According to N.V. Rubtsova, there are not enough grounds for excluding "other procedures" from the bankruptcy procedure of legal entities, since the simplified procedure implies the presence of special legal structures indicating the need for a clear sequence of actions in relation to liquidated and no longer existing debtors¹⁸.

It should be concluded that the bankruptcy procedures of legal entities can be divided into two groups: 1. procedures for restoring solvency (supervision, judicial reorganization, external management); 2. Liquidation proceedings (bankruptcy and opening of liquidation proceedings).

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¹⁸Рубцова, Н. В., & Белых, В. С. (2003). Процедуры банкротства юридических лиц.

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