



ISSN NO. 2320-5407

*Journal homepage: <http://www.journalijar.com>*  
*Journal DOI: [10.21474/IJAR01](https://doi.org/10.21474/IJAR01)*

**INTERNATIONAL JOURNAL  
OF ADVANCED RESEARCH**

# RESEARCH ARTICLE

## ISSUES OF LEGAL REGULATIONS OF JUDICIAL REHABILITATION AS A BANKRUPTCY PROCEDURE IN REPUBLIC OF UZBEKISTAN.

**Khudaybergenov B. B<sup>1</sup>.**

Senior science researcher at Tashkent State University of Law, Tashkent State University of Law.

### Manuscript Info

#### Manuscript History:

Received: 25 April 2016  
 Final Accepted: 19 May 2016  
 Published Online: June 2016

#### Key words:

bankruptcy, rehabilitation, debtor,  
 creditor, liquidation.

#### \*Corresponding Author

**Khudaybergenov B. B.**

### Abstract

The article considers the issues of improvement of legal bases of regulation of the judicial rehabilitation in the process of bankruptcy, the measures debtor's solvency, the principles of judicial rehabilitation in the Republic of Uzbekistan.

*Copy Right, IJAR, 2016., All rights reserved.*

It should be noted that according to criteria “support for new business”, Uzbekistan is currently ranked 42<sup>th</sup> in the world, in ensuring the fulfillment of the concluded contracts – 32<sup>th</sup>, in the effectiveness of the bankruptcy system of economically insolvent enterprises – 75<sup>th</sup>.

According to the indicator of “loans to small businesses”, Uzbekistan over the past three years has risen from 154<sup>th</sup> to 42<sup>th</sup> place, improving its ranking by 63 positions<sup>1</sup>.

To date, as a result of ongoing economic reforms introduced the procedure of judicial reorganization in the bankruptcy procedure. This procedure has become a powerful instrument of regulation and control of the economy. As one of the most effective ways of strengthening the economy, bankruptcy institute regulates the relations connected with the restoration of solvency, financial rehabilitation of insolvent enterprises and liquidation of unviable enterprises<sup>2</sup>. At this stage, court considers identification and financial support to an insolvent business entity as an integral part of the bankruptcy procedure. We can say that based on the experience of developed countries, the main condition for the effective functioning of market is competition, in this struggle, the company goes bankrupt. In this situation, the economic recovery of the enterprise is beneficial to debtors, as well as creditors. Clearly, economic and social importance of judicial rehabilitation is growing in the legal systems of all nations.

<sup>1</sup> Report of the President of Uzbekistan Islam Karimov at the enlarged meeting of the Cabinet of Ministers dedicated to the socio-economic development in 2015 and the most important priorities of economic program for 2016. Narodnoe slovo. 16.01.2016. № 11 (6446). - p.2.

<sup>2</sup> Azizov Kh. The bankruptcy of entrepreneurs and issues of improvement of legal basis. // Scientific magazine “Moliya”. 2/2014. – p. 112.

Bankruptcy law has its place in the replacement of inefficient owners, preservation of social utility companies to maintain production, the restructuring of inefficient enterprises.

Bankruptcy Law (April 24, 2003, № 474-II) of the Republic of Uzbekistan is the most important source associated with the judicial readjustment. For the first time the law was passed on May 5, 1994 and in this law judicial readjustment was used in a general sense. For example, the insolvent debtor or representative of the owner of the property may file a petition to suspend the bankruptcy proceedings and to conduct rehabilitation (rehabilitation of a business entity activity owner or authorized body, the creditor (creditors) or other persons through the provision of financial assistance to it); basis for rehabilitation is to have a real opportunity to restore the solvency of the debtor entities subject to the continuation of its activities; to determine the feasibility and appropriateness of rehabilitation, the economic court shall have the right to involve independent experts (auditors) with the assumption of the costs associated with their activities, the debtor; after a determination by the economic court participants are required to carry out reorganization meeting at which they must work out a deal, and others.

The Act of 28 August 1998 established the procedure in a case of bankruptcy of the debtor - legal entity (the settlement agreement, external management, liquidation proceedings), the procedure when considering the bankruptcy case the debtor - natural person (the settlement agreement, liquidation proceedings), extra-judicial procedures (pre-trial rehabilitation, voluntary liquidation).

With the current bankruptcy law (24 April, 2003) added to the procedure of judicial supervision and rehabilitation in a case of bankruptcy of the debtor-legal entity. Judicial rehabilitation norms defined in articles 76-90. They determine the following issues: the introduction of an application for judicial reorganization, enforcement of the debtor's obligations in accordance with the debt repayment schedule, the procedure and the consequences of the introduction of judicial rehabilitation, rights and duties of manager sanitizing, judicial rehabilitation plan and debt repayment schedule, changes in the debt repayment schedule, early termination and termination of judicial reorganization, the end of judicial reorganization, execution and reporting obligations of persons providing security, the consequences of default by persons to provide security. Judicial reorganization entered a period not exceeding twenty-four months, which may be extended by the economic court of not more than six months to meet the requirements of individual creditors to provide security for fulfillment of obligations. If the financial recovery procedure involves holding large-scale events, this term simply is unrealistic. However, that in deciding on the introduction of treatments, the creditors have a choice only between the financial rehabilitation and external administration, these measures in the short term have a very low efficiency<sup>3</sup>.

Measures to restore the solvency can be quite diverse, their range depends solely on the capabilities and objectives of the legal entity. Some economists think it possible to be used for financial improvement of the enterprise about three dozen measures from the registration documents of title to real estate and real estate appraisal before the sale of the enterprise<sup>4</sup>.

M.V.Telyukina, based on an analysis of practice, highlights measures such as the analysis of the financial condition of the debtor and its counterparty; forecasting the economic situation; reorganization measures; the restructuring of production; improvement of the debtor management system<sup>5</sup>. Pliev G.A. proposes to subdivide the event according to their content on: legal (the transaction for the sale of the property, the property of the debtor, the debtor's obligations pursuant to its owner, assignment of claims of the debtor, the conclusion of profitable contracts, and others.); cost (re-production, the closure of unprofitable production debtor and others.); organization (management change, etc.)<sup>6</sup>.

---

<sup>3</sup> Telyukina M.V., Tkachev V.N. Tarasov V.I. Financial Rehabilitation as a passive wellness treatment // Advokat. 2003. № 12. - p. 25.

<sup>4</sup> Dondukov A.N., Ryabtsev N.B., Yun G.B. Crisis management and re-structuring of enterprises in the Russian Federation. - M., 2001. - p. 91-99.

<sup>5</sup> Telyukina M.V. Ways to prevent the bankruptcy of a legal entity. // Advokat. 1999. № 9. - p. 17-21.

<sup>6</sup> Pliev G.A. Civil-law mechanism preventing insolvency (bankruptcy) of the legal entity: Diss. Ph.D. - M., 2005. - p. 93.

These measures, within the meaning of the law should be applied in the judicial reorganization procedure. At the same time, I think, there are no obstacles for their independent use by interested parties without having to bring court proceedings and the appointment of the external manager<sup>7</sup>.

In our opinion, the principles of rehabilitation procedure should be given in the Law. Among the main principles of the reorganization include: timeliness, speed, efficiency and fast return on investment activities, the transparency of their development and approval, staff participation in the ongoing activities, the best the interests of the different categories of workers and managers, shareholders, creditors and the company investors, government organization etc.<sup>8</sup>.

Normative-legal acts on bankruptcy and rehabilitation are being perfected. Including adopted Resolution of the Plenum of the Supreme Economic Court number 142 dated 27 January, 2006 "On some issues of application of the Law of the economic courts of the Republic of Uzbekistan "On bankruptcy". Because of the provisions given in this law, the quality of hearing the cases of bankruptcy improved. In addition, the Resolution from 23 March, 2004 of the Cabinet of Ministers of the Republic of Uzbekistan "On measures on organization of the judicial control of weak enterprises" defined the procedure for judicial control authority in the bankruptcy proceedings, and professional qualification requirements for persons engaged in activities as judicial liquidator, procedures for their certification, issuance, suspension, renewal and cancellation of the certificate, as well as the procedure for maintaining a common register of court control.

In conclusion, it should be noted that the procedure for judicial reorganization in the bankruptcy procedure gives a great positive impact. As a result, the use of the judicial reorganization shall assist to:

- ❖ restore the solvency of the debtor;
- ❖ continue accrual of taxes and other mandatory payments to the state budget and state funds;
- ❖ meet the claims of all creditors (in accordance with article 134 of the Law, debentures, not satisfied due to lack of property deemed settled);
- ❖ prevent the conditions for the emergence of unemployment;
- ❖ if the debtor is a macroeconomic now, the recovery of financial status affects the development of the economic and social situation of the state.

---

<sup>7</sup> Kurkin V.B. Pretrial restoring solvency of an economic entity - an alternative way of resolving the debtor's financial crisis. Gaps in Russian legislation. Legal Journal. Number 1/2008. - p. 130.

<sup>8</sup> Crisis management: Textbook. / V.D.Dorofeev and others. Penza: Publishing house Penza. Penza Institute for Economic Development and crisis management. 2006. - p. 174.