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RESEARCH ARTICLE

The micro-finance activities management and improvement of some issues on juridical regulation.

Madumarov Talantbek.

Independent researcher of TSUL.

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Abstract

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***Corresponding Author**

Madumarov Talantbek.

Financial services have a special place in a market economy. The effective and qualitative implementation of Financial services is determinative of business development of the country, ensuring of economic stability, establishment of appropriate monetary policy. Therefore it is important to harmonize the institutions's system providing financial services and their activities.

Today, it is very important to support financially small business and private entrepreneurship in the implementation of their activities. To provide small business entities by initial capital or to develop business projects carried out by them with the aid of financial mechanisms plays an important role. In this purpose there were established micro-credit banks as a separate financial institutions in carrying out these tasks the role of which is important and invaluable. In fact, the primary objective of microcredit organizations is to provide the small businesses entities with financial services the volume of which does not exceed the amount and thereby promote the development of their activities.

Theoretically there is procedure of 3 stages for formation and establishment of a legal entity: [1]. Order, the Authorization procedure, the regulatory procedure. According to aforementioned, there is an idea concerning implementation of authorization procedure for credit organizations establishment.
According to H.Rahmonqulov's opinion, "These procedures as an allowed exception from the law shall be applied to organizations that wish to carry out business activities"[2].

E.A.Sukhanov states that commercial banks and insurance companies are to be established for Authorization procedure, the activity of which deals with financial services provision [3]. J.A.Ionova states that the authorization form of public registration is effective for banks as well, this is not only checking of legality but the objective of its

[1] Rahmonqulov H. The subjects of civil law. Training Guide. Tashkent: Uzbekistan, 2008. - S.86 .; Civil Law. Volume.1 Guidline. Forth revised and corrected Edition . / under editorship of A.P.Sergeev. Yu.K.Tolstoy.-M .: booklet, 1999. -P.136-137.
[2] Rahmonqulov H. The subjects of civil law. Training Guide. Tashkent: Uzbekistan, 2008. - S.86.
[3] Civil law. Educational book in 2 volumes. Volume1/ under editorship of E.A.Sukhanov. -M.: BEK Publishers, 1998. –P.97.

establishment [4]. Meanwhile V.A.Zaxarov asserts that in establishment of different types of legal entity particularly in the financial sector there is used a special method. [5]. Consequently, in addition to the above considerations, we can say that microcredit organization's organizational and legal aspects have special method and means based on the special requirements of the legislation.

The conception of the President of the Republic of Uzbekistan declared on November 12, 2010 contains the ideas for basic frameworks of micro-credit organizations and the necessity issue, presents the following opinions:

At the same time, the strengthening of this system concerns with attraction of privately owned capital to bank and financial sector due to developing of the legislative framework on establishment of private ownership and private banks based on leasing, insurance companies, such microfinance institutions as loans associations. Meanwhile this enables the enhancement of competition in the banking and other financial services market and the improvement of customer service provision quality and promotes the development of a modern market infrastructure that meets the highest international standards[6].

There is organized explanatory process towards establishment of the legal entities based on founders application, that means that Persons/Group of people (natural persons and legal entities) establishing legal entity are entitled to freely build-up due to the procedure as prescribed by the law and in this regard the State Agency is forced to admit any legal entity. The formation of legal entities in this way does not require the permission or consent either the State Bodies or Third parties [7]. Reasoning from the abovementioned cases we can say that the procedure of microcredit organizations formation as a legal entity are as follows:

1. Order.
2. Establishment by Authorization method.

According to Article 4, paragraph 1 of the law "On microcredit organizations", the natural persons and legal entities are entitled to found microcredit organizations in any organizational and legal form in compliance with the law.

This rule widely enables the microcredit organizations for establishment and function. In this regard, for favorable activities of microcredit organization the full liability or limited liability company, limited liability company, joint-stock companies as legal organizational form of legal entities can be recommended. However, in this case, Section 4, paragraph 1 of the law cannot be understood in terms of absolute infinity, and in this case, should have the following exceptions:

Firstly, the commercial microcredit organization is a legal entity. Therefore, the basic objective of its formation and operation is to get a profit. Consequently this denies the foundation as legal entities of legal organizational form for non-commercial micro-finance organizations.

Secondly, pursuant to Article 3, paragraph 3, the microcredit organization is unentitled to deal with production, insurance, trade and brokering, and to engage directly with other activities not prescribed by this law. In this regard, it is visible that as prescribed by the Article 69 of the Civil Law the micro-credit institutions of production cooperative form is prohibited to be founded. Because the production cooperative being a separate organizational and legal form of legal entities, and their basic objective is to directly deal with production activities. Consequently, As defined in part 1 of Article 69 of the Civil Code the production corporative is a voluntary association based on membership, where the personal participation of citizens and as well as the members (participants) integration of fixed contribution along with property in a purpose to carry out production or other economic activities.

[4] Ioanova J..A. Lawful issues on public registration and licensing of entrepreneurs Dissert.of Cand. Of Jurid.Science -M.: 1997. –P.35.

[5] Zakharov VA legal regulation of Legal persons establishment Dissert.of Cand. Of Jurid.Science . -Ekaterinburg; 2001. P.136-138.

[6] Islam Karimov, Concept of further deepening democratic reforms and formation of civil society in the country. Tashkent: Uzbekistan, 2010. - 52 p.

[7] Review of the Civil Code of the Republic of Uzbekistan. I Vol. Tashkent: Vector Press, 2010. - 112 S.111..

Thirdly, there are clear instructions of definite systems that do not concern with microfinance institutions establishment prescribed by the law. In particular, according to Article 4, paragraph 2, the micro-credit organizations can not be founded by the government agencies, political parties, trade unions and religious organizations. This means that there are limited requirements scope for the founders.

Nowadays as microfinance services there are defined by micro-financial institutions of the country the amounts for. Microcredit (the sum not exceeding the amount of thousand-fold of the minimum wage), the microloan (for individual borrower the sum not exceeding one hundred-fold of the minimum wage amount), and micro-leasing (the sum not exceeding the minimum wage for two thousand times) and today these services are widely and effectively used by small businesses.

It should be admitted that there was established JSCB "Microcredit bank" specialized organization for providing microfinance services in the country, and created the legal framework for this activity. Particularly, The Law No. 50 dated September 15, 2006 "On Microfinance services", The law of the Republic of Uzbekistan No. 53 dated On September 20, 2006, "On microcredit organizations" and many other laws of legislation in this field have been adopted This Legal documents are important factors in the development of small businesses entities as the first steps for the development of the microfinance activity in Uzbekistan and that have formed specific legal mechanisms.
However, in recent years there carried out reforms aimed at further development of small business and private entrepreneurship activities in the country, in particular, the adoption of the new wording of the Law "On guarantees of freedom of entrepreneurship activity", The Decree of the President of the Republic of Uzbekistan No. PD- 4725 "On securing reliable protection of private property, measures on elimination of barriers in rapid development of small business and private entrepreneurship " was adopted on May 15, 2015, this Decree defines a number of measures aimed at prevention of unlawful interference into business activities, for violation of private property rights by the state legal protection and control authority's officials increasing the level of bringing to responsibility up to criminal prosecution, strengthening the guarantees for the protection of private property, liberalization of administrative and criminal legislation regulating business activity, simplification all types of the registration and licensing, as well as procedures concerning with the implementation of foreign economic activity, creation of the necessary conditions and opportunities for private property and private enterprise development and expanding of their access to financial and credit resources, outlined a series of measures aimed at improving the business climate.

Based on the objectives defined in the decree, the law "On amendments and insertion to certain legislative acts of the Republic of Uzbekistan towards strengthening business entities, private property protection, focused on clearance within its rapid development" was adopted on August 20, 2015.

Along with the present law the Criminal law of the Republic of Uzbekistan, the Criminal Procedure Code, the Administrative liability, Economic Procedure, Civil, Tax, Labor Code were amended. In particular, there were introduced regulations of criminal liability concerning following cases.

In the cases envisaged by the Article 180 of the Criminal Code (fraudulent bankruptcy) and Article 181 (bankruptcy concealment) If crime committer compensates the damage inflicted to a person (victim) the punishment in the form of restriction of liberty and imprisonment shall not be applied to him, in the case of crime stipulated in the Article 184 (taxes or other obligatory payments evasion) the person who has committed a criminal offense for the first time, if this person within thirty days upon receipt of Decision of the State Tax Body on results of data tax inspection fully covers the damage inflicted to the government in the form sanctions, taxes and other obligatory payments, including fines and other pecuniary sanctions shall be exempted from responsibility, the Article 188 of the new edition was renamed as "Illegal business activities" , that makes provision for regulations on penalty enforcement towards taking a very large amount of income from the implementation of illegal business that has not passed through state registration and can not be controlled.

Whereas these changes in microfinancing of small business and private entrepreneurship activities, as well as in enhancing quality of services provided to them by microcredit organizations requires elimination of unwarranted interference in business activity, additional requirements and obstacles clearance and on the basis of these considerations, the legislation in this regard, the activities of financial institutions as well are to be liberalized.

At the same time, it is necessary to improve the quality of services provided by financial institutions, the use of advanced methods of modern banking and financial sector, to expand the microfinance types aimed at ensuring the interests of small business entities and private entrepreneurship activities, to develop a long-term and medium-term microfinance services.

In addition, the fact that the Law of the Republic of Uzbekistan No. 301 dated October 4, 2011, "On the exchange of credit information" was adopted and the normative-legal acts in the field of bank loans are being updated requires an improvement in compliance with the legal framework of the activities of financial institutions.

Indeed, financial institutions hold a unique role in the system of microfinance institutions. Microcredit organizations is the most common type of microfinance institutions-it performs activities regarding small scope of short-term financial services for small businesses and private business structures.

Today, the legal framework of microcredit organizations have been formed, according to the article 3,part1 of law of the Republic of Uzbekistan No. 53 dated September 20, 2006 "On microcredit organizations" "the legal person providing microcredit, microloan, and in the field of micro-leasing services provision carrying out activities and providing other microfinance services In compliance with this Law is microcredit organization ".

This norm of the Law states that microcredit organization is a legal entity dealing with activity of provision of microfinance services.

If we pay attention to the laws of foreign countries in this regard, we can see that representation is used more accurately in comparison to the status of microcredit organizations. In particular, in accordance with Article 2 of the Law of the Russian Federation No. 151 dated July 2, 2010-RL "On microfinance activities and microfinance institutions ", microfinance institutions is legal person registered in public register in the manner prescribed by the present federal law, that carries out micro-finance activities in the form of Fund, an autonomous non-profit organization, institution (except state-financed organizations), non-profit cooperation, agricultural society or non-registered membership.

According to Article 1 of the Law of the Republic of Kazakhstan No.56-V LRK dated November 26, 2012, "On Microfinance Organizations", the microfinance organization's official status being determined by the judicial bodies due to the state register, the commercial organization carrying out activities on the provision of micro-credit, as well as an additional activities types permitted by this law is the legal entity.

In accordance with paragraph 3 of Decree of the President of the Republic of Belarus No. 325 dated June 30, 2014, "on bringing the debt and lending in the activities of microfinance organizations" , microcredit organizations include the following:

1. Commercial microfinance institutions- registered in the Republic of Belarus in the form of agricultural companies or unitary enterprises accepted as pawn shop are legal entities.
2. Non-profit microcredit institutions are legal entities registered in the Republic of Belarus in the legal organizational form as fund or cooperative.

In the international laws of foreign countries there is shown the necessity of establishment particularly in the countries of the CIS microcredit organizations in the form of fund, economic membership and society and of the reflection of this organization in a public register by integration of standards concerning the status of microcredit organization as a legal entity. Whereas this makes more exact the establishment of micro-credit organizations and registration as a legal entity. Therefore, The article 4 of the Law of the Republic of Uzbekistan "On microcredit organizations" defining the rules concerning " microcredit institutions can be established by legal persons or individuals in accordance with the law in any organizational-legal form " rules of the legal entity which microcredit organizations It is advisable to indicate the legal organizational form for microcredit organizations establishment as legal persons.