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COMPARATIVE ANALYSIS OF CORPORATE BANKRUPTCY IN UZBEKISTAN AND ABROAD

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Abstract. The main purpose of the bankruptcy law should be to support and rehabilitate the business, not to bankrupt the debtor enterprise as soon as possible. In the event that the company is declared bankrupt and the liquidation procedure is applied, it is advisable to create opportunities for entrepreneurs to start a new business. Looking at foreign experience, it is clear that even in developed countries, bankruptcy laws and bankruptcy procedures have changed over the years, with the main goal being to prevent enterprises from going bankrupt, to rehabilitate them and to expand their opportunities to start a new business.

Key words: bankruptcy, court, law, analysis.

Throughout history, bankruptcy laws have served a variety of purposes, from debt collection to providing financially troubled borrowers with the opportunity to restart their businesses. As social relations developed in relation to the correct method of responding to troubled debtors to creditors, the norms of bankruptcy legislation changed in away that reflected these relationships.

Today, most countries follow one of the two main legal traditions (systems): common law (Anglo-Saxon legal system) and continental law (Romano-German legal system, civil law). Common law traditions originated in England in the Middle Ages and were later used in British colonies. The tradition of the continental legal system developed simultaneously on the European continent and was applied in the territories of the European imperial powers ("Traditions of General and Civil Law"). Because of colonialism and common history, most European and South American countries now have a civil law system, members of the Commonwealth of Nations, and a common law system in the United States. The main differences between the two systems lie in the codified (Romano-Germanic legal system) and non-codified (Anglo-Saxon legal system) legal rules or in the law based on "legal precedents" and in the law based on rules. This means that in the continental legal system, when faced with a judicial dispute, judges rely on a set of rules set out in written codes to resolve the dispute, while in the general legal system, judges rely on previous judicial practice. As a result, the powers of a judge in the two systems differ. In countries with a continental legal system, judges operate within a codified system established by a comprehensive set of laws. As a result, their influence on the formation of laws is less important than that of legislators and jurists who draft codes. In the general legal system, judges' decisions are based on previous judgments in similar cases. Thus, in the new situation, the decisions of the presiding judges will become the

norm and will be used in future trials. As a result, judges in the general legal system have a significant influence on the setting of laws.

Recently, there has been a stable trend in the country towards an increase in the number of financially insolvent enterprises . The institution of insolvency is one of the most important elements of the market economy, which is designated to stimulate the productive activities of economic entities, to contribute to the liquidation of inefficient organizations .

In countries with common law systems, such as the United Kingdom and the United States, bankruptcy laws allow unpaid debt before bankruptcy to provide honest but unsuccessful debtors a fresh start in life (business) by provisions on funds. In contrast, European and Latin American bankruptcy laws did not contain such provisions. There were barriers for those declared bankrupt to start a new business. However, at the end of the twentieth century, the legislation of some of these countries (for example, Argentina and France) began to implement such procedures as deregistration of some unpaid creditors under certain circumstances . This means that some creditors will have to cancel their loans.

The experience of foreign countries in the implementation of bankruptcy proceedings mentioned above shows that bankruptcy proceedings have been polished over the years and are aimed at protecting the interests not only of creditors, but also of the debtor company or individual. The main purpose of the bankruptcy law is to prevent the insolvent debtor from going bankrupt and to rehabilitate him. If recovery is found to be unprofitable or recovery is not possible, it is also important to declare the debtor bankrupt and close the business as soon as possible. It is against the interests of both creditors and debtors to try to rehabilitate a company when it is clear that recovery is impossible.

The following are the main differences and similarities between the bankruptcy proceedings in the legislation of the Republic of Uzbekistan and the proceedings regulated by the bankruptcy legislation of the four developed countries (USA, UK, Germany and Japan).

The legislation of the above-mentioned countries stipulates that a"rehabilitation plan" for the rehabilitation of the enterprise is developed and the procedure for its implementation is determined. This process is similar to the "judicial reorganization" of the Law of the Republic of Uzbekistan "On Bankruptcy".

The prevailing bankruptcy process

In the United States, the United Kingdom, and Japan, the practice of "reorganization" predominates, while in Germany and Uzbekistan, bankruptcy and liquidation of the debtor are preferred. One of the main reasons for this is the legislation of these two groups of states based on different legal systems (general and continental).

Judicial participation

In the United States and Japan, court participation in bankruptcy cases is moderate. In the United States, for example, a bankruptcy judge can decide any issue related to

a bankruptcy case, but most bankruptcy proceedings are administrative in nature and take place outside the courthouse. Chapters 7, 12 or 13 of the Bankruptcy Code, and sometimes Chapter 11, provide that this administrative process is carried out by a "trustee" appointed by the court to oversee the case.

In the United Kingdom, the role of the courts in bankruptcy cases is insignificant. This is because the country has a "voluntary liquidation of creditors" for insolvent companies and a "voluntary liquidation of participants" for solvent companies. These processes often do not increase the need for litigation.

Judicial participation is very important in the bankruptcy legislation of Uzbekistan and Germany. In this case, the main decisions are approved by the court by a ruling, even after the decision of the creditors' meeting.

Activities of the debtor's governing body

Under U.S. and Japanese law, the debtor's governing authority is retained even in bankruptcy proceedings. In Germany and the United Kingdom, the activities and powers of the debtor governing body are limited or reduced. Depending on the method of bankruptcy in the Republic of Uzbekistan, the powers of the debtor's governing body are limited or retained.

Court Manager

In the United States, a court administrator is rarely appointed by a court. This is usually decided by the creditors' meeting. In the UK, due to the low level of judicial intervention, a credit manager is appointed by the creditors. In Germany, Japan and the Republic of Uzbekistan, the court administrator is approved by the court.

Priority of interests

Most developed foreign countries firmly protect the interests of the debtor in their bankruptcy legislation. In other words, they envisage achieving economic stabilization by removing the debtor from bankruptcy as much as possible, rehabilitating it through comprehensive support and helping to get rid of debts to creditors .

In the United States, the bankruptcy process is dominated by the protection of the debtor's interests. In Britain, protecting the interests of creditors is the highest goal. In Germany, until 1999, the interests of creditors prevailed. After 1999, due to changes in the legislation, it became important to protect the interests of debtors from the influence of creditors. Uzbekistan and Japan have a neutral attitude towards the interests of creditors and debtors. At the same time, in the process of filing for bankruptcy, an attempt is made to find a solution that is acceptable to both parties. In general, the Bankruptcy Law in Uzbekistan contains a large number of tools to protect the interests of the debtor, but it is not always used due to the low legal readiness of business entities.

Under Japanese law, the rights of rehabilitation creditors and the performance of debtor's obligations may be partially or completely changed in the course of rehabilitation. This aspect is specific to the institution of conciliation agreement in the Uzbek bankruptcy legislation. Japanese law combines the features of both judicial reform and conciliation. According to the Japan Civil Rehabilitation Act, a rehabilitation plan is developed

during the rehabilitation process in the following stages:

- setting the terms of the plan and preparing its draft;
- decision-making on the draft plan;
- approval of the draft plan;
- implement the plan.

Debtors and rehabilitation creditors may be involved in setting the terms of the rehabilitation plan and drafting it. The plan should clearly set out the general rules for canceling or reducing liabilities, as well as the terms of deferrals. If the debtor is obliged to submit a rehabilitation plan to the court, the creditor has the right to prepare it.

The insolvency legislation of the countries analyzed above shows that the issue of restitution of the debtor is a very important process in all of them, although they are regulated differently by laws and codes, and are called by different names. In all pre- and post-trial proceedings, care is taken to preserve the debtor as much as possible.