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CORPORATE BANKRUPTCY: LEGAL FOUNDATIONS, SCHOLARLY DEBATES, AND DIRECTIONS FOR REFORM

Aminov Mirobbos Askar ugli

Lecturer in Corporate and Business Law, Institute of Science,

Finance and Technology (ISFT), Uzbekistan

Email: mrabbos2023@gmail.com | Tel: +99895-045-44-99

Abstract: This article analyzes the economic and legal aspects of corporate insolvency — bankruptcy. It discusses the factors leading to bankruptcy, mechanisms for its prevention, the role of directors, and approaches in national and international legislation. It also explores contemporary challenges of the bankruptcy institution based on scholarly opinions. Additionally, the article proposes preventive measures, financial monitoring systems for companies, and improvements to corporate governance standards.

Keywords: bankruptcy, insolvency, liquidation, restructuring, court, corporate governance, creditor, director liability, financial monitoring.

I.Introduction

In a market economy, enterprises constantly face economic risks. The most severe of these is bankruptcy, i.e., the inability of a company to fulfill its financial obligations. Bankruptcy is a complex process that entails not only financial consequences but also legal, social, and political ramifications. Therefore, a comprehensive scientific approach is needed to study and manage the institution of bankruptcy effectively.

Prof. Thomas Jackson (Yale University):
“Bankruptcy is not just a failure; it is a legal and institutional tool to reorganize or liquidate failed economic activity for the benefit of all involved.”

II. The Concept of Bankruptcy and Its Causes

What is bankruptcy? According to the Law of the Republic of Uzbekistan “On Bankruptcy,” bankruptcy is the court-declared insolvency of a company due to its inability to fulfill its obligations in a timely manner.

Main causes:

- Weak financial management
- Errors in credit and debt policy
- Market fluctuations
- Corruption and poor investment decisions
- External economic crises
- Insufficient internal audit and control systems
- Inadequate financial literacy and risk analysis

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Dr. Askarov N. (Economist, Tashkent):
"In many cases, bankruptcy stems not only from economic factors but also from poor internal management culture."

Additional global studies have shown that excessive leverage, reliance on short-term financing, and lack of diversification in revenue streams also substantially contribute to insolvency risk.

III. Legal Aspects: National and International Legislation Uzbekistan's experience:
• The "On Bankruptcy" Law has been in force since 2003.
• Bankruptcy proceedings are conducted by the courts.
• Includes restructuring (reorganization) and liquidation procedures.
• Simplified procedures exist for small business entities.
• The information exchange system between tax authorities, banks, and courts remains partially integrated.
• Enforcement of court decisions, especially asset recovery, remains a procedural challenge.

International experience:
• USA: Chapter 11 Bankruptcy provides companies time and legal tools to recover.
• Germany: The Insolvency Code incorporates social responsibility into insolvency proceedings.
• Russia: Strengthened personal liability of directors in bankruptcy law.
• Japan and South Korea: Support SME recovery through innovative approaches.
• United Kingdom: The Insolvency Act 1986 emphasizes corporate rescue and includes administration as a key measure.
• European Union: The Preventive Restructuring Directive (2019) aims to harmonize pre-insolvency procedures across member states.

Prof. Elizabeth Warren (Harvard): "Good bankruptcy law protects both creditors and workers — it is a balance between fairness and efficiency."

IV. The Role of Directors and Managers
Decisions leading to bankruptcy are often tied to missteps by company leaders. In international practice, directors are:
• Responsible for the accuracy of financial statements
• Held accountable for asset dissipation
• Subject to disciplinary or criminal liability
• Punished for hiding assets in cases of fraudulent bankruptcy

Emerging corporate governance frameworks also call for:
• Enhanced disclosure of risk factors in annual reports
• Board oversight of solvency indicators and early warning signals
• Stakeholder engagement in insolvency planning

Prof. Bainbridge (UCLA): "Directors must anticipate distress and act with care — otherwise, they breach their fiduciary duty."

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V. Scholarly Debates

Topic	Approach	Scholars
Is bankruptcy a problem or opportunity?	Positive (reorganization)	Thomas Jackson, E. Warren
Should directors bear personal liability?	Yes	Lynn Stout, Coffee J.
Should restructuring be prioritized?	Yes, for social stability	Freeman, Hansmann

Contentious issues:

- Abuse of bankruptcy proceedings (hiding assets)
- "Speculative bankruptcy" — rapid liquidation to the detriment of creditors
- Workers' rights: are they recognized as creditors?
- Are environmental and social impacts considered during bankruptcy?
- Conflict between short-term creditor interest and long-term business sustainability
- Lack of alignment between insolvency law and tax obligations

VI. Socioeconomic Consequences of Bankruptcy

- Unemployment: job losses following liquidation
- Creditor losses: especially among small suppliers
- Deterioration of the business climate: creates a psychologically negative environment for other companies
- Regional economic impact: increase in bankruptcies reduces tax revenues
- Social unrest: large-scale layoffs may destabilize communities
- Weakened investor confidence: perceived legal uncertainty in bankruptcy administration

Dr. Holbek (Denmark): "Bankruptcy is contagious — if not managed legally and socially, it can weaken entire markets."

VII. Conclusion and Recommendations

- Bankruptcy is an extraordinary situation in company operations that requires effective financial monitoring, governance reforms, and a strong judiciary to prevent.
- Uzbekistan's legislation should expand restructuring procedures and strengthen the rights of workers and small creditors.
- It is recommended to implement pre-bankruptcy financial warning systems and mandatory reporting mechanisms for directors.
- Preventive measures should include audit oversight, financial stress testing, and development of credit rating systems.
- Capacity building for bankruptcy judges and administrators is essential.
- Cross-border insolvency frameworks should be harmonized to support global business operations.

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REFERENCES:

1. Law of the Republic of Uzbekistan “On Bankruptcy,” 2003.
2. Thomas Jackson, The Logic and Limits of Bankruptcy Law, Harvard University Press.
3. Elizabeth Warren, “Bankruptcy and the Middle Class,” Michigan Law Review.
4. Bainbridge S., Corporate Law and Economic Analysis, 2015.
5. Coffee J., Gatekeepers and Governance, 2006.
6. Askarov N., “Bankruptcy and Corporate Governance,” Tashkent Financial Institute Journal, 2021.
7. Freeman R., Stakeholder Theory and Business Ethics, 2010.
8. Lynn Stout, Cultivating Conscience: How Good Laws Make Good People, Princeton Press, 2011.
9. Hansmann H., The Ownership of Enterprise, Harvard University Press, 2000.
10. German Insolvency Code (Insolvenzordnung), 2022 edition.
11. US Bankruptcy Code, Title 11 (Chapter 7, Chapter 11), Cornell Legal Information Institute.
12. Holbek K., “Socioeconomic Impacts of Corporate Bankruptcy,” Danish Economic Journal, 2019.
13. OECD Report on Insolvency Reforms, 2020.
14. EU Directive 2019/1023 on Preventive Restructuring Frameworks.
15. UK Insolvency Act 1986.
16. IMF Working Paper: “Corporate Insolvency Reform in Emerging Markets,” 2022.