UDC 34

CURRENT ISSUES OF INDIVIDUAL INSOLVENCY (BANKRUPTCY): PROSPECTS AND WAYS OF DEVELOPMENT

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Abstract

The report examines the current issues of individual insolvency (personal bankruptcy) in the Republic of Uzbekistan, focusing on the development of national legislation and the creation of effective mechanisms for financial rehabilitation of the population. It analyzes the legal framework governing the bankruptcy of individuals and identifies key challenges in its practical implementation, including high entry thresholds, low public legal awareness, procedural complexity, and significant financial costs. Special attention is given to an overview of judicial practice and a comparative analysis of international experience (Russia, Germany, and the United States). Based on the identified problems, the report proposes concrete measures for improvement: simplified procedures, reduced financial and legal barriers, enhanced pre-trial debt restructuring, digitalization of processes, and strengthened social protection for bona fide debtors. The paper emphasizes the importance of building a fair and accessible bankruptcy system as a key instrument for restoring financial stability and reducing socio-economic risks.

Keywords:

insolvency, personal bankruptcy, financial rehabilitation, Uzbekistan legislation, pre-trial debt restructuring, judicial practice, international experience, debt burden, debtor protection, process digitalization.

Introduction

Personal bankruptcy is a legal state in which an individual is unable to timely and fully meet monetary obligations to creditors. It manifests itself in prolonged payment delinquency, enforcement proceedings, income shortfalls, and the inability to repay debts out of property or income. The institution of bankruptcy protects the interests of creditors and gives the debtor a "second chance" for financial recovery.The relevance of this topic is linked to the growth of consumer lending, economic crises, and the development of legal regulation, including in Uzbekistan. The absence of effective debt settlement mechanisms leads to social risks: declining welfare, rising tension, and reduced trust in the financial system.The main problems are high barriers to access (thresholds, costs), low legal literacy, lengthy procedures, and the stigmatization of debtors. The solutions are legal modernization, simplification of procedures, digitalization, the development of pre-trial restructuring, and protection of vulnerable groups, taking international experience into account. This report will go on to examine the current regulation, the problems, foreign experience, and proposals for improving the mechanism of personal bankruptcy in Uzbekistan.

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Legal Framework

The Civil Code of Uzbekistan establishes the general principles of liability for debts. Under its provisions, a citizen is liable for debts with all of their property, except for that which cannot be subject to recovery. The Civil Code expressly allows a citizen (including former individual entrepreneurs) to be declared insolvent: "an individual may be declared insolvent by a court," while the procedure and conditions for introducing such a procedure "are established by law." The principal act is the Law "On Insolvency" (ZRU-763) of 12.04.2022, which applies to legal entities, individual entrepreneurs, and citizens. Bankruptcy procedures are initiated under the articles of the law in the economic courts at the debtor's place of residence. The right to file for bankruptcy belongs to the debtor and to the creditors (including authorized bodies)[1], as well as the tax authority in certain cases. Under Article 7 of the Law "On Insolvency," the application is submitted to the court in writing or through the electronic portal, after which the court reviews the application in accordance with the Economic Procedure Code.

The legislation provides for both procedures aimed at restoring solvency (restructuring) and procedures leading to the cessation of activity (liquidation). One of the significant innovations is the introduction of a simplified bankruptcy procedure for individuals, which previously did not exist. Thus, upon fulfilling certain conditions (payment delinquency exceeding three months and a debt amount exceeding 200 times the base calculation value), a citizen gains the opportunity to initiate bankruptcy proceedings. Given the novelty of this legislative act, its provisions are currently applied on the basis of the articles of the Civil Code and the relevant procedural legislation.

Judicial Practice

The introduction of special norms for personal bankruptcy in Uzbekistan since 2023 has meant that statistics on such cases are still small, but already show growth. Previously, before 2023, similar situations — for example, the bankruptcy of former individual entrepreneurs — were resolved under the rules of commercial litigation. However, since 2024 the economic courts in the Tashkent, Navoi and other regions have begun to record the first applications from citizens themselves. Thus, in April 2024 the Urtachirchik Economic District Court of Tashkent Region accepted for review a bankruptcy application from an individual, whose creditors included a major bank, a microfinance organization, and an insurance company[2]. A similar case was filed in June 2024 with the Taylak Economic District Court (Navoi Region) — from a citizen with significant debt owed to a bank[3]. An analysis of the cases presented shows that the initiative in such proceedings predominantly comes from financial institutions, while the procedure itself remains episodic in nature. There is currently no settled administrative practice, for example in the form of pre-bankruptcy agreements, within the existing legislation. Although systematic statistical data have not yet been collected, it is evident that the institution of personal bankruptcy is applied selectively and has not become widespread.

International Experience

Accumulated foreign experience can suggest ways to develop the institution of personal insolvency.

- **Germany.** The German consumer bankruptcy procedure (Privatinsolvenz) is available to any citizen, regardless of the amount of debt. The law does not set a minimum debt threshold, but it does provide for mandatory prior pre-trial settlement. Before filing an application, the debtor is required to take concrete steps to reach an agreement with creditors. Only if it is not possible to settle the dispute out of court, with a corresponding explanation in the application to the court, may bankruptcy proceedings be initiated[4]. The German personal bankruptcy system offers a comprehensive approach aimed at giving debtors a "fresh start." The process is divided into three phases: preliminary preparation (about 6 weeks),

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the main judicial stage (approximately 1 year), and a period of good-faith conduct by the debtor (3 to 6 years). At the end of these stages, debts are fully discharged, and creditors' claims are deemed satisfied. It is important to note that the legislation guarantees the preservation of funds necessary for living, for example through a special protected account (Pfändungsschutzkonto), from which funds corresponding to the subsistence minimum cannot be seized. This system is open to everyone, including low-income individuals without property who receive social benefits. Moreover, the state provides financial support by reimbursing court costs after three years if their financial situation has not improved[5].

- **United States.** The right to bankruptcy in the United States is enshrined at the constitutional level and is intended to serve as a protective mechanism for citizens facing unmanageable debt problems. The system offers two main options: Chapter 7, which provides for the full liquidation of existing property to pay off debts, and Chapter 13, oriented toward debt reorganization and its gradual repayment under an agreed plan. Following the introduction of the BAPCPA law in 2005, aimed at curbing abuse, the procedure became stricter but generally remains in demand. Individuals are given the option either to transfer part of their property to creditors with subsequent cancellation of the remaining debt, or to enter into an agreement to repay debts out of their future income[6]. American practice demonstrates that with clear rules, citizens can effectively clear their financial "history" and start life with a clean slate, while creditors obtain a lawful mechanism through the courts for recovering part of the debt.

An analysis of international experience shows that simplifying bankruptcy procedures (reducing entry barriers, ensuring accessibility for low-income individuals) and prioritizing debt discharge give borrowers the opportunity to start with a clean slate. However, an effective control mechanism is needed to prevent the dishonest use of such mechanisms. Most states see positive social effects: a reduction in the financial burden on citizens without applying punitive measures to those who have acted in good faith in fulfilling their obligations.

Problems and Difficulties of Implementation

In practice, the new procedure reveals a number of significant obstacles. The primary problem is the strict eligibility criteria. Under the legislation, a citizen's debt amount must exceed 200 times the base calculation value (currently equivalent to tens of millions of soums) and have a payment delinquency of at least three months[7]. Several factors limit the accessibility of the bankruptcy procedure for citizens.

First, the high debt threshold makes it unachievable for most people with smaller financial obligations. Second, insufficient public awareness plays a significant role. Many are unaware of the possibility of bankruptcy or fear it because of the social stigma attached to debt. Experts point out that the root of these fears lies in a misunderstanding of the essence of the procedure, which is, in fact, a chance to start with a clean slate, without losing one's primary home and without harming one's career. Third, there are significant procedural barriers. To launch the procedure, one must apply to the court, pay a state fee (comparable to three minimum salaries), and engage a court-appointed manager, which is costly. Experts warn that attempting to go through the bankruptcy procedure on one's own, without professional support, is extremely difficult and risky[8].

Judicial procedures can take years: for example, in other sectors commercial cases often last several years. High costs (paying for lawyers and the manager, property valuation, etc.) and bureaucratic formalities create barriers. In addition, the **burden on the courts** is growing: the introduction of the new procedure requires training judges and managers, which is happening gradually.

Taken together, the above limits the practical application of the legislation: despite its formal accessibility, the procedure in practice remains far from simple for the average citizen.

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Proposals for Improvement

Based on an analysis of Uzbek practice and foreign experience, several concrete initiatives can be put forward:

- **Reducing access barriers.** "It is proposed to review the established minimum debt threshold for initiating bankruptcy proceedings, which currently stands at 200 BCV. Consideration is being given to introducing a more differentiated approach to this indicator, or its complete abolition, by analogy with the practice applied in Germany. In addition, it would be worthwhile to examine exempting low-income citizens from paying the state fee for bankruptcy. Following Germany's example, low-income borrowers (for example, those receiving social benefits) could be granted the right to file for bankruptcy without prior payment of costs. Alternatively, provision could be made for compensating the costs incurred after three years, provided there has been no improvement in their financial situation."[9].
- **Digitalization of procedures.** It is necessary to make fuller use of the potential of the "Digital Court" of the Republic of Uzbekistan. In particular, a full transition to electronic document flow should be ensured for filing applications and reports, as well as for interacting with judicial bodies, using the my.sud.uz portal and similar platforms. In addition, it would be worthwhile to introduce the practice of holding court hearings remotely. These measures will help optimize case-processing times and minimize bureaucratic procedures, giving applicants the ability to file documents remotely and monitor the status of their applications[10]. Automated accounting systems and electronic records will reduce the number of errors in document processing.
- **Information support and training.** "For the successful implementation of the personal bankruptcy procedure, a set of measures needs to be taken. First, a large-scale information campaign should be launched covering online platforms, mass media, and in-person consultations. Second, it is critically important to organize specialized training for judges, court-appointed managers, and lawyers, focusing on the practical aspects of the procedures being implemented. Third, active work is needed to raise citizens' level of legal awareness, for example through free consultations and hotlines. This will enable the public to correctly prepare the necessary documentation, since, as noted, initiating the procedure on one's own without the relevant experience involves significant difficulties and risks[11], which is why support and clarification of the procedures are needed.
- **Protection of bona fide debtors.** Oversight needs to be strengthened to curb dishonest actions such as fictitious bankruptcy, while ensuring that the debtor retains the vital social benefits they need. Provision is made for the possibility of granting deferrals or installment plans for the principal debt (interest holidays), taking into account the debtor's financial condition. The debtor's right to keep the housing and property necessary for their livelihood should be enshrined in law, similar to the provisions of Article 25 of the Civil Code, and unjustified seizure of property should be excluded.

The implementation of the proposed measures is aimed at improving the accessibility and effectiveness of the personal bankruptcy procedure. Optimizing conditions, digitalizing processes, and providing social support measures will help transform the perception of bankruptcy from a negative stigma into an effective mechanism for protecting citizens' rights. At the same time, it is critically important to ensure a balance of interests among all parties — creditors and debtors — while maintaining the stability of the financial system and fostering a culture of responsible financial behavior in the long term.

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