



## LEGAL ANALYSIS OF BANKRUPTCY CRIMES

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**Abstract:** *In this article, there are some types of crimes against the economic foundations of the Criminal Code of the Republic of Uzbekistan - "Fake bankruptcy" (Article 180), "Hiding bankruptcy" (Article 181), "Deliberately causing bankruptcy" (Article 181<sup>1</sup>). crimes are analyzed legally.*

**Key words:** *Bankruptcy, creditor, economic crime, economic entity, judicial recovery, material damage, accounting report, enterprises equivalent to cities, criminal liability.*

One of the main elements of the regulatory mechanism of market relations in every developed country is the bankruptcy procedure.

Bankruptcy is recognized by the economic court, it is understood that the debtor is unable to fully satisfy the creditor's demands for monetary obligations and (or) fulfill his obligation in full for mandatory payments. One of the symptoms of bankruptcy is the non-fulfillment of monetary obligations and payment obligations by the debtor within three months from the date of their occurrence.<sup>91</sup>

Bankruptcy describes the organization's inability to meet creditors' demands for payment for goods, works, services and to ensure mandatory payments to budgetary and extra-budgetary funds. Bankruptcy is declared after the economic crisis of the organization or enterprise, after it is declared insolvent by the court or after it is officially declared by the debtor during its voluntary liquidation.

Depending on the signs of origin, bankruptcy is divided into the following four types:

Real - bankruptcy is the financial stability of the enterprise and inability to fully restore its capabilities in the future due to real losses of used capital;

Technical - describes the state of insolvency of the enterprise, which occurred as a result of a significant delay in accounts receivable;

Deliberately - its insolvency, which was deliberately carried out by the head of the enterprise;

Fraud refers to the deliberate misrepresentation by a business of its insolvency in order to mislead creditors in order to obtain a deferment of the amounts due.

The current Criminal Code of the Republic of Uzbekistan provides for liability for 3 crimes related to bankruptcy: 1. False bankruptcy (Article 180 of the Criminal Code) 2. Concealing bankruptcy (Article 181 of the Criminal Code) 3. Deliberately causing bankruptcy (Article 181<sup>1</sup> of the Criminal Code)

Committing an act that has all the symptoms of a crime provided for in the Criminal Code is the basis for prosecution.<sup>92</sup>

<sup>91</sup> O'zbekiston Respublikasining 2003 yil 24-apreldagi "Bankrotlik to'g'risida"gi 474-II-sonli qonun, 4-modda

<sup>92</sup> Jinoyat kodeksining 16-moddasi. O'zbekiston Respublikasining Jinoyat kodeksi [2021 yil 1 aprelgacha bo'lgan o'zgartirishlar va qo'shimchalar bilan] – T.: «Yuridik adabiyotlar publish», 2021y. – 5b



The object of these crimes are social relations that ensure the normal operation of economic entities, social relations that ensure the established procedure for declaring bankruptcy, relations that ensure the interests of economic entities, economic relations, are social relations that protect the economic interests of the state, organizations and the interests of creditors.

The objective aspect of the criminal offense is that, in Article 180 of the Criminal Code, it is understood that an economic entity, knowing that it cannot fulfill its obligations, makes an untrue announcement. Making an untruthful declaration means that the subject, despite being able to fulfill his obligations, deliberately evades his obligations and declares himself bankrupt.

The objective side of Article 181 of the Criminal Code is that a business entity has lost its solvency or bankruptcy by providing untrue information to an authorized state body or participants and (or) falsifying accounting information. willful concealment. Providing false information means providing false information by a business entity to the competent state authorities, arguing that it is not possible to fulfill the monetary obligations concluded with the creditor without reflecting the true state of financial and business activities. is meant to provide. The state of concealment is manifested only in the non-fulfillment of past-due monetary obligations, i.e., overdue indebtedness plays a key role in determining the fact of the insolvency of a business entity, because the business entity is liable for an overdue obligation is not considered a debtor. The accounting report is a unique system that summarizes the property and financial situation of the organization and the information compiled in a prescribed form based on the accounting data during the reporting period. By changing or presenting accounting information, it is necessary to understand the consequences arising from actions that do not fully or partially reflect the true state of the financial activity of the business entity.

Concealment of bankruptcy in another way is understood as failure of competent state authorities to receive sufficient information that allows to identify signs of economic crisis. For example, it is understood that after closing a bank account, a business entity does not report it to the relevant authorities, performs small operations after closing it, does not provide accounting or other information under some pretext.

The objective aspect of Article 181<sup>1</sup> of the Criminal Code is intentional bankruptcy, that is, it is committed by intentionally creating or increasing insolvency. Deliberately causing insolvency is the failure of a business entity to fulfill its financial obligations without being able to meet the demands of creditors, except for the times specified in the Law of the Republic of Uzbekistan "On Bankruptcy", or, within 3 months from the date of commencement of the obligation by the debtor, and within 6 months for the enterprises that make up the city and are equal to it, willful non-fulfillment of the relevant monetary obligation or (and) duties. When it comes to the enterprises that make up the city and are equal to it, it is said that the workers of the enterprise make up 80% of the population living in the area where the enterprise is located.

Determining the signs of intentional bankruptcy based on the illegal actions of persons who have the right to issue mandatory instructions for the debtor, that is, the business entity, after the debtor has been recognized as bankrupt and liquidation



proceedings have been initiated by the economic court. It is carried out when there are grounds for assuming that it will cause bankruptcy.

Signs of intentional bankruptcy of the debtor: 1. Violation of payment discipline 2. Payment of property at a price lower than the balance sheet value. 3. Failure to take measures within the specified period to collect overdue receivables. 4. Transfer of more than 50% of the debtor's assets involved in the main activity to another person. 5. Criminal use of funds and other property with intentional damage or loss to a legal entity. 6. Conclusion of large transactions by the executive body or the supervisory board, which are not within their competence<sup>93</sup>.

From the subjective side, all crimes related to bankruptcy, which are part of some economic crimes, are committed intentionally.

The subject of these crimes can be any person over the age of 16, however, the subject of Article 181<sup>1</sup> of the Criminal Code is a special subject. That is, a legal entity, the owner of a legal entity, participants, members of the council commits a socially dangerous act for their own interests or the interests of others.

All crimes related to bankruptcy (articles 180, 181, 181<sup>1</sup> of the Criminal Code) are considered completed from the moment when they cause a large amount of damage to creditors

#### REFERENCES:

1. O'zbekiston Respublikasining Jinoyat kodeksi [2021 yil 1 aprelgacha bo'lgan o'zgartirishlar va qo'shimchalar bilan] – T.: «Yuridik adabiyotlar publish», 2021y. – 5,139-141 b
2. O'zbekiston Respublikasining 2003 yil 24 apreldagi «Bankrotlik to'g'risida»gi 474-II-sonli Qonuni (yangi tahriri)
3. O'zbekiston Respublikasi Vazirlar Mahkamasining “Soxta bankrotlik, bankrotlikni yashirish va qasddan bankrotlikka olib kelish alomatlarini aniqlash qoidalarini tasdiqlash to'g'risida”gi 224-sonli qarori,27-bandi
4. Rustambayev M.X. O'zbekiston Respublikasining Jinoyat kodeksiga sharhlar.Maxsus qism/M.Rustambayev. – Toshkent: «Yuridik adabiyotlar publish», 2021y. – 509-524 b
5. Devlin, Alan (Alan James) Principles of law and economics / Alan Devlin. - Routledge, 2015

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<sup>93</sup> O'zbekiston Respublikasi Vazirlar Mahkamasining “Soxta bankrotlik, bankrotlikni yashirish va qasddan bankrotlikka olib kelish alomatlarini aniqlash qoidalarini tasdiqlash to'g'risida”gi 224-sonli qarori,27-bandi