

Problems of legal regulation of bankruptcy during armed conflict

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Abstract. The relevance of the study is due to the inconsistency of the national legislation of Ukraine on bankruptcy with the current conditions on the territory of the state, which are connected with the full-scale invasion of the Russian Federation. Martial law causes high risks of destruction of medium, small and large business enterprises, in particular in uncontrolled and temporarily occupied territories. Thus, the purpose of the study is to justify the need to improve the national legislation on bankruptcy, increase the efficiency of the mechanisms for the realization of rights, the fulfilment of obligations and the protection of the interests of economic entities in the conditions of military confrontation. The main methods used to write the work: historical, comparative, statistical, method of analysis, synthesis. The results of this work turned out to be the following: the legislation regulating legal relations regarding bankruptcy was investigated, it was found out which subjects of economic activity are at risk of bankruptcy, and the impact of the war on the state of legal regulation of the economic sphere was investigated. A conclusion was made regarding the main shortcomings of the national bankruptcy legislation. The question of the possibility of preserving the debtor's further reputation and the proportional satisfaction of creditors' rights by following the bankruptcy procedure, which was developed in accordance with modern conditions, was also investigated. The possibility of compensation for losses from the side of the aggressor country for those enterprises that suffered losses and destruction as a result of Russian military aggression is also indicated. The expediency of introducing a moratorium on bankruptcy and the main disadvantages of this type of restriction are discussed. Further directions for improving and increasing the level of effectiveness of the legally provided mechanisms for the implementation of the bankruptcy procedure in the conditions of war on the territory of Ukraine are proposed. The results of research work can be used as a theoretical basis for further legislative developments in the field of bankruptcy

Keywords: martial law; bankruptcy procedure; legal relations; economic sanctions; business entities

Introduction

The effectiveness of the Code of Ukraine on Bankruptcy Procedures (2018) became obvious from the moment of its adoption. However, certain aspects of it need to be clarified and improved in view of the modern conditions and challenges associated with the military invasion of the Russian Federation on the territory of Ukraine. Bankruptcy cases of business entities located in temporarily occupied or uncontrolled territories of Ukraine are considered by commercial courts in accordance with the requirements of the Code. It is clear that arbitration administrators face difficulties in fully complying with all requirements in these territories. Unfortunately, the current legislation does not provide for any exceptions, nor does it define separate procedures or time frames for the resolution of relevant issues that significantly affect bankruptcy proceedings. Also, the impossibility of disposing of the debtor's assets within the time limits established by law remains a problem. Thus, the purpose and objectives of the study are to find out how it is possible to

improve the bankruptcy procedure for its effective implementation for those economic entities that suffered from the Russian armed invasion, to study the importance of this procedure in view of ensuring the normal functioning of business and further "rehabilitation" of the debtor.

O.M. Kulyk (2022) analysed models for determining the probability of bankruptcy for enterprises operating in the hotel business. The author points out that most of the relevant enterprises were re-evacuated and moved their business to other areas that are safer, but a large number declared themselves bankrupt for several main reasons; it can be both external and internal factors, errors in management activities. The researcher also provides a list of models that determine the probability of bankruptcy of a particular enterprise: the two-factor model, Altman's modified model, and O. Zaitseva's model. T.I. Shvidka (2022) discussed the possibilities of reforming the legislation on bankruptcy issues during martial law. In general, the author claims

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about the shortcomings of the national legislation in the researched area, due to the fact that the interests of debtors and creditors remain not fully settled in the conditions of war. It also points out the existing contradictions between the current Code of Ukraine on Bankruptcy Procedures (2018) and a number of proposed draft laws that propose changes to the codified act of laws. The author emphasizes the need to improve the national legislation on the bankruptcy procedure in such a way as to ensure the further “rehabilitation” of the debtor, because the Ukrainian economy needs the activities of small, medium and large businesses in order to function normally.

R.I. Sodoma (2022) analysed how it is possible to avoid bankruptcy at the enterprise under the conditions of martial law. The author points out that there are several effective tools of anti-crisis management activities, in particular liquidation, rehabilitation or reorganization of the enterprise. The last two forms are designed to restore business profitability, competitiveness. In turn, liquidation is a form of protection of the basic rights and freedoms of participants and employees of the relevant enterprise. All forms, as the author notes, are intended to be a preventive way to prevent bankruptcy of the enterprise. O. Staschuk *et al.* (2022) also note that the current conditions of waging war on the territory of Ukraine lead to higher risks of bankruptcy for enterprises. The authors also analysed the main reasons that provoke bankruptcy, provided statistical data on the liquidation, rehabilitation, and reorganization of enterprises. Emphasis was placed on the need for changes in national legislation in the relevant field; noted that the relevant changes should be consistent with the needs of small and medium-sized businesses. H.V. Samoilenko (2021) offers in the research several ways to solve the problem of bankruptcy of critical infrastructure enterprises, in particular, a moratorium on the bankruptcy procedure, taking remedial measures, improving national legislation.

In general, it is worth noting the high level of interest in this topic, which is observed in Ukrainian scientific doctrine. It is also appropriate to note that several issues related to the bankruptcy procedure must be additionally investigated. This includes, in particular, the study of statistical data on this problem, foreign experience in preventing bankruptcy, the use of international tools for reparation of damages from the aggressor country, and proposing ways to solve the problem.

Materials and methods

Scientific research was conducted using several methods of scientific knowledge. In particular, the historical one was used to find out and analyse the origins and development of the institution of bankruptcy in Ukraine and abroad. The use of the terminological principle made it possible to reveal the concept of bankruptcy, and to distinguish the main causes of bankruptcy at enterprises. The method of legal hermeneutics, in turn, helped to find out and reveal the development of the legal framework that defines the main legal grounds and procedures related to bankruptcy. Yes, Code of Ukraine on Bankruptcy Procedures (2018) was investigated, legislative initiatives for its improvement. Peculiarities of the bankruptcy procedure are studied in more detail on the example of European countries. It is worth highlighting the systematic approach, which made it possible to form an expanded concept of bankruptcy and to investigate the main models that help enterprises calculate

the probability of failure to meet their financial obligations to creditors. Also, with the help of the appropriate method, the manner in which the state of war and the invasion of the Russian Federation on the territory of Ukraine affected the state of business activities by business entities, in particular, critical infrastructure enterprises, was investigated.

Using the analysis method, the issues related to the main problems of the bankruptcy procedure on the territory of Ukraine during the full-scale war were investigated, as well as the main ways and opportunities for solving the relevant problems were proposed. Also, the scientific method of modelling made it possible to form the most suitable options for further improvement of the national bankruptcy legislation in order to balance the rights and obligations between creditors and debtors, as well as to ensure a “remedial effect” on the enterprise that declared itself bankrupt. The synthesis method made it possible to combine and examine all the important characteristics and elements of the institution of bankruptcy in order to identify its prospects for development and improvement. To single out the main shortcomings of the current legislation, which regulates the relevant sphere of legal social relations; aspects that must be taken into account by the legislative body in order to ensure compliance with the rights and freedoms of participants in economic relations when forming bankruptcy legislation.

It is also worth highlighting the comparative method by which positive and negative legislative initiatives to amend the Code of Ukraine on Bankruptcy Procedures (2018) were identified in the scientific study. The comparative method also came in handy during the analysis of the reasoning of scientists and authors regarding the improvement of the institution of bankruptcy in the conditions of martial law. The statistical method, which made it possible to understand the scale of bankruptcy on the territory of Ukraine based on the analysis of open court cases and open statistical data, became quite important. The sources of relevant information in this study are the Commercial Court of Cassation (2023) as part of the Supreme Court. The probability of compensation for damages caused by Russian aggression to enterprises by the aggressor state is clarified, the international legal mechanisms of such lawful recovery are investigated. A general conclusion related to the subject of the study is formed on the basis of certain elucidated elements of bankruptcy.

Results

Bankruptcy is a legal process that occurs when a person, business, or organization is unable to meet its financial obligations and pay its debts (Fir, 2022). Bankruptcy provides a structured framework for managing and resolving financial difficulties, offering both debtors and creditors some protection of rights and freedoms (Zhang, 2023). The bankruptcy procedure is an important tool, especially during the period of martial law and the full-scale invasion of the Russian Federation on the territory of Ukraine, which leads to higher risks of the company's insolvency. The legal definition of bankruptcy is available in the Code of Ukraine on Bankruptcy Procedures (2018), which states that bankruptcy is caused by the inability of the debtor to restore the ability to pay for monetary obligations through restructuring, rehabilitation, which is recognized by the decision of the commercial court; thus, repayment of debts for obligations is possible only through the liquidation of the enterprise.

Thus, taking into account these definitions, it is appropriate to single out the following as signs of the bankruptcy procedure:

- the debtor admits his insolvency and requests the court's intervention to resolve his financial situation;
- after filing the application, the court takes control of the debtor's assets and liabilities, and all financial activities related to bankruptcy are carried out under the supervision of the court;
- suspension of activity regarding payment of monetary obligations;

- valuation of assets;
- debt repayment plan;
- involvement of creditors in the procedure and the arbitration administrator;
- a plan for financial rehabilitation, as well as the occurrence of certain reputational consequences for the enterprise, that is, bankruptcy remains in the credit history of a person, which potentially makes it difficult to obtain credit or loans in the future (Radovanovic & Haas, 2023).

It is worth analysing some statistical data (Fig. 1).

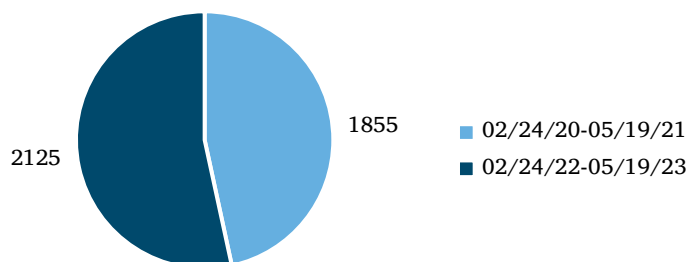


Figure 1. Number of notifications and announcements regarding the opening of bankruptcy/recognition of insolvency
Source: compiled by the author based on Cassation Commercial Court (2023)

Thus, according to the data in the period 02/24/2022-05/19/2023, the number of relevant notifications and announcements is 6% more than the same period during 2020-2021, which indicates the need for an effective bankruptcy procedure that takes into account modern conditions of martial law. However, the main legal act – the Code of Ukraine on Bankruptcy Procedures (2018), does not contain such provisions. Among the main factors causing the insolvency of entities in modern conditions, it is worth identifying the following:

- the company's assets have been destroyed or completely destroyed;
- the enterprise in its entirety or some of its parts (representative offices, branches) are located in the territory temporarily occupied and not under the control of Ukraine;
- the enterprise was seized by the armed forces of the Russian Federation and illegal armed formations;
- the enterprise is unable to carry out economic activities on the controlled territory of Ukraine during the war due to restrictions caused by the disruption of logistics chains;
- insufficient number of skilled specialists (so-called scarce occupations) due to mobilization or migration after the full-scale invasion of February 24, 2022;
- inflationary processes and a sharp decrease in the solvency of the population, which especially affected small and medium-sized businesses.

As a result, this potentially leads to large-scale bankruptcies of enterprises of all forms of ownership, not only during martial law, but also after it ends. For example, it is worth pointing out some of the largest enterprises of Ukraine, which have already suffered large losses due to the armed offensive of the Russian Federation, which causes a higher risk of bankruptcy. This is the "Mariupol giant" – the Azovstal plant and the Mariupol Metallurgical Plant named after Ilyich, the Kremenchuk and Odesa oil refineries, separate gas and oil enterprises in the Kharkiv and Dnipropetrovsk regions, the Sievierodonetsk association "Azot",

the Avdiiv coke-chemical plant, the Mykolaiv plant "Zorya Mashproekt", SE "Antonov", Kyiv factory "Coca-Cola".

The problem is that the Code of Ukraine on Bankruptcy Procedures (2018) does not regulate the relevant legal relations if they arise in the territory that is not under the control of Ukraine, in particular for several main reasons. This is the impossibility of conscientiously and properly performing the duties assigned to the subjects of the bankruptcy procedure in uncontrolled territories; lack of communication and exchange of information between the territories that are under the control of Ukraine and temporarily occupied; insufficient amount of data on the persons involved in the case, the impossibility of informing the participants of the case regarding the consideration of their case. Also, the arbitration administrator in bankruptcy cases cannot provide information to the court regarding the determination of the source of payment for the liquidator's services. Usually, the relevant services are paid from the funds provided by creditors from the sale of the debtor's assets, however, due to the fact that such assets are located in temporarily occupied territories, such payment cannot be made. The presence of the debtor's assets in the uncontrolled territory makes it impossible to complete the proceedings in the bankruptcy case and to complete the liquidation procedure. Due to the relevant circumstances, the trustee cannot properly exercise his powers in the bankruptcy case, which means the risk of disciplinary or other legal punishment (Cassation Commercial Court, 2023).

It is expedient to analyse legislative initiatives to change the Code of Ukraine on Bankruptcy Procedures (2018) in order to regulate the activities of the arbitration manager and other subjects in the territories that are temporarily outside the sphere of control of the Ukrainian state. Yes, the Draft Law No. 5010 "On Amendments to the "Final and Transitional Provisions" section of the Code of Ukraine on Bankruptcy Procedures on prevention of negative economic consequences of unscrupulous bankruptcy of enterprises as a result of

military aggression in the East of Ukraine” (2021) stipulates that the court refuses to accept an application to open bankruptcy proceedings regarding those assets and property located within the temporarily occupied territories, settlements located on the contact line. This draft law was not adopted, because it provides for a moratorium on the opening of proceedings, however, the introduction of such a moratorium is considered a violation of the rights of creditors, and also does not correspond to economic legislation, which guarantees the possibility of applying to the economic court in case of satisfaction of interests and observance of individual rights.

It is also worth paying attention to Draft Law No. 7442 “On Amendments to the Code of Ukraine on Bankruptcy Procedures on the Application of Bankruptcy Procedures During Martial Law” (2022), where it is proposed to exempt arbitration administrators from disciplinary liability for non-fulfilment of duties and non-performance of actions provided for by law during the period of martial law and within six months after its cancellation or termination. The removal of such responsibility should occur in the case of proving that the performance of duties was impossible due to the conduct of hostilities and military operations in the places where duties are required to be performed, as well as due to the presence of the creditor, the debtor, the property of the debtor and the creditor in places of increased danger, which cause a threat to the life or health of the arbitration administrator. The analysed draft law is under consideration, but the issue of proceeding in cases of insolvency and bankruptcy regarding creditors, debtors who are in the uncontrolled territory has been left out of consideration. But the Draft Law No. 7442 (2022) provides an opportunity to take into account modern realities and protect the rights and obligations of responsible persons in cases of failure to fulfil the powers assigned to them by law.

It is appropriate to pay attention to the Draft Law No. 8231 “On Amendments to the Code of Ukraine on Bankruptcy Procedures on Prevention of Abuses in the Field of Bankruptcy for the Period of Martial Law” (2022), which, like the Draft Law No. 5010 (2021), proposes to introduce a ban on opening proceedings in bankruptcy cases that arose from the moment of the full-scale invasion of the Russian Federation – from February 24, 2022; it is also proposed to stop already open proceedings that arose after February 24, 2022. The resumption of proceedings in the relevant category of cases according to the draft law is planned after 90 days from the date of cancellation, and termination of martial law on the territory of Ukraine. Again, the introduction of a moratorium on the opening of relevant proceedings creates a conflict between special and general legislation, which guarantees the right to appeal to the economic court for the protection of violated rights. Also, such a ban may contribute to abuse by debtors, which jeopardizes the guaranteed rights of creditors. The project is currently under consideration in committees.

Draft Law No. 4409 “On Amendments to the Code of Ukraine on Bankruptcy Procedures” (2020) provides for amendments to the Code of Ukraine on Bankruptcy Procedures (2018), which are designed to regulate the procedure for approving the liquidator’s reporting data, and also establish that in the absence of property assets that are subject to inclusion in the general composition of the liquidation mass, the liquidator is authorized to indicate such property assets in the liquidation balance sheet, which is submitted

for consideration within the scope of economic proceedings in order to certify the absence of property of the debtor. The Draft Law No. 4409 (2020) also stipulates that bankruptcy applications are considered in a simplified action procedure; an automated information system on bankruptcy and insolvency data is being created; improvement of the system of selection of arbitration managers; also, if there are no proposals regarding the arbitration manager in the cases of the relevant field of legal relations, he is appointed by the court by automatic selection from the relevant registers. This draft law was registered in 2020 – before the start of the full-scale invasion of the Russian Federation on the territory of Ukraine, but already after the start of the anti-terrorist operation in the temporarily occupied Luhansk and Donetsk regions. It contains general provisions and changes, without taking into account the conditions of martial law and the presence of uncontrolled territories. Despite this, the bill was passed and implemented in April 2023. Changes in the bankruptcy legislation did not solve the urgent problems with bankruptcy proceedings in the occupied territories.

It is time to introduce amendments to the Code of Ukraine on Bankruptcy Procedures (2018) as separate exceptions or a separate procedure for proceedings in cases of insolvency of:

- enterprises whose assets have been destroyed or completely destroyed;
- enterprises, which almost entirely or some of their representative offices/branches are located in the territory temporarily occupied and not under the control of Ukraine;
 - enterprises seized by the armed forces of the Russian Federation and illegal armed formations;
 - enterprises that are unable to carry out economic activities in the controlled territory of Ukraine during the war due to restrictions caused by the state of war.

When developing further legislative initiatives to simplify the military bankruptcy procedure, it is proposed to take into account the procedural terms and limits of the proceedings; inclusion in the general composition of the liquidation mass of the debtor and those property and assets located in the territories that are temporarily occupied or are outside the sphere of influence of Ukraine, suffered from the armed aggression of the Russian Federation, but belong to the debtor on the basis of the right of ownership; sale taking into account the specifics of the subject composition of the parties in transactions, the object of which is property located in temporarily occupied, uncontrolled territories; implementation of measures that will help preserve facilities and enterprises located in territories outside the sphere of control of the Ukrainian state.

It is also worth considering Ukraine’s constant movement towards European integration. Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency) (European Union, 2019), which regulates the bankruptcy procedure and has been successfully implemented in Germany. This Directive contains the principles of preventive restructuring, a system of measures designed to increase the effectiveness of such a procedure, debt repayment and bankruptcy prevention. Also in Germany, in accordance with this

Directive (EU) 2019/1023 (European Union, 2019), it is provided that legal entities can declare themselves bankrupt within 21 days, if there is at least one of the probable causes of bankruptcy and insolvency and there are no possibilities to prevent such a cause (Calu, 2022). The creation of special judicial institutions, which are responsible for the settlement of issues related to both the insolvency of business entities and bankruptcy, is foreseen (Katsanidou *et al.*, 2022).

Thus, further legislative changes regarding bankruptcy issues should relate to and focus on the “rehabilitation” of the bankrupt, early access to restructuring, and should also take into account the current situation – the activities of most enterprises are carried out under martial law and missile attacks, due to which the risks of bankruptcy and the inability to respond according to monetary obligations are growing. It is important to emphasize the rehabilitation of enterprises and financial education in order to prevent cases of bankruptcy, which may include mandatory consultations, financial management courses or other educational programs aimed at increasing financial literacy. (Dobre, 2022). It is possible to involve an intermediary or mediator in the process of “rehabilitation” of the debtor, who will conduct negotiations with creditors regarding debt restructuring, repayment schedules, and provide financial advice.

Discussion

J. Kitowski *et al.* (2022) investigated bankruptcy risks based on forecasting models in the context of the Polish experience. The authors use several bankruptcy prediction models, including Altman’s Z-score, Springate’s model, Grover’s model. These models are widely used in analysis to assess the financial condition and risk of bankruptcy of companies. The study analyses the data of Polish firms in various sectors for a certain period. By applying these bankruptcy prediction models, researchers identify various indicators that may signal a higher risk of bankruptcy, including financial ratios such as liquidity ratios, profitability ratios. The results of the study show that certain financial ratios, such as the current ratio, net income, equity to total assets’ ratio, and sales to total assets’ ratio, significantly affect the bankruptcy risk of Polish companies. The results of the authors do not coincide with the results of this work, but they are important to take into account in the context of research and to identify preventive methods of preventing the bankruptcy of this or that enterprise.

Research by T. Le (2022) focused on the problem of unbalanced datasets in bankruptcy prediction, when the number of bankrupt companies is significantly lower than the number of non-bankrupt companies. Imbalanced datasets can lead to biased forecasting models and reduced accuracy in determining bankruptcy risk. The author systematically reviews and classifies various unbalanced learning methods for bankruptcy prediction. These techniques include both traditional machine learning algorithms and special techniques designed to efficiently process unbalanced data sets. The paper discusses different approaches, such as sampling-based methods (e.g., oversampling and undersampling), economic learning, and hybrid approaches that combine several methods. The authors examine the strengths and limitations of each method and provide insight into their application to bankruptcy prediction. The article also highlights the challenges and future directions of research in the field of bankruptcy forecasting, further research. Also, author notes that

the legal basis for appropriate and accurate forecasting of bankruptcy risks plays a crucial role. The author’s results partially coincide with the results of this work, in particular, in terms of the importance of quality legislation for effective fight against insolvency and bankruptcy. It is also appropriate to indicate preventive measures, such as financial literacy.

P. Stamolampros and E. Symitsi (2022) investigated the relationship between the attitude to employees, financial indicators and the quality of legislation and the risk of bankruptcy. The results of the study show that employee attitudes play a significant role in influencing the risk of bankruptcy. Companies that provide better treatment to their employees, such as fair compensation, training and development opportunities, and a supportive work environment, have a lower risk of bankruptcy. In addition, the legal framework, which promotes effective management and balance between the interests of business entities, also affects the probable avoidance of bankruptcy. Also, the results of the authors indicate that one of the ways to reduce the risk of bankruptcy is a favourable attitude towards employees, higher financial indicators and a constant increase in the level of financial literacy and personnel management. Yes, it enables managers, employers, and executives to develop strategies that promote employee welfare and ensure sound financial management, ultimately reducing the risk of bankruptcy. The results of the authors partially coincide with the results of this work, but they are important to take into account, in particular, in order to highlight effective initiatives for creating a working atmosphere, competent financial management, and increasing the level of solvency of enterprises.

In the article A. Fauzia *et al.* (2022) the conflict that arises during registration of collateral objects in case of bankruptcy of the debtor is considered. In particular, the contradiction between the norms related to the provision of liability rights and the norms regulating the bankruptcy procedure is considered. The authors discuss the legal framework for collateral and bankruptcy, analysing the relevant laws and regulations. The article considers the legal consequences, the potential impact on creditors, debtors, and other interested parties involved in the bankruptcy procedure. The authors also analyse court decisions and legal principles related to this issue. In addition, the article offers possible solutions and recommendations for the settlement of the conflict between the rules for registration of collateral objects during bankruptcy. The results of the work partially coincide with the results of the present one, in particular, in the area of conflicts in the legislation. In Ukraine, this conflict arises during the creation of legislative initiatives due to the proposal to introduce a moratorium on the opening of proceedings in bankruptcy cases, however, this ban contradicts the provisions that guarantee the right to apply to court for the protection of the rights and freedoms of individuals.

G. Walter *et al.* (2022) investigated the relationship between the softness of laws on bankruptcy of individuals and entrepreneurship in the countries of the EU. They focused on how the ease with which individuals can obtain personal bankruptcy discharges affects business. The results of the study show that countries with more lenient and simplified bankruptcy laws tend to have higher rates of entrepreneurship, indicating that such debt repayment mechanisms can encourage people to take risks and participate in entrepreneurship, open access to loans and necessary financial

resources for opening and developing a business. However, the authors note that striking the right balance is critical to avoiding moral hazard problems and ensuring fairness and efficiency in the bankruptcy system. The results of the work partially coincide with the results of this study, but they are important for the formation of conclusions and proposals for improving the legislation on the territory of Ukraine in order to ensure the effective functioning of entrepreneurship in the conditions of martial law.

A. Gurrea-Martínez (2020) in the article examines the future of the reorganization procedure in the context of the legislation governing the bankruptcy procedure. The author examines changes in the reorganization procedure, taking into account the challenges and geopolitical conditions. The article discusses the advantages and disadvantages of anti-bankruptcy mechanisms such as debt restructuring, out-of-court settlements and informal negotiations to facilitate corporate reorganization. The author's results coincide with the results of this work. But it's also worth adding that martial law also requires adequate risk assessment and contingency planning: entrepreneurs must conduct a thorough risk assessment to identify potential threats and problems associated with a specific situation. Developing comprehensive contingency plans can help businesses anticipate and prepare for adverse events, allowing them to take preventative measures to minimize the impact on their operations. In addition, the development of adaptability and flexibility of business models can allow entrepreneurs to quickly adjust their strategies according to changing circumstances (Acosta-Ormaechea & Morozumi, 2022). It is also important to implement support policies, such as providing loans at low interest rates, providing financial guarantees or creating special funds to support affected enterprises, which can help reduce liquidity problems and prevent bankruptcy (Papíková & Papík, 2022).

In exceptional situations, temporary relief measures may be required to allow business space. This may include a moratorium on debt repayment, a suspension of interest or penalties, or an extension of time to comply with regulatory requirements. These measures can help reduce financial pressure on businesses and allow them to focus on stabilizing their operations. State aid may also include tax breaks, subsidies, grants, or assistance in accessing new markets or export opportunities. It is important to be open to considering new legislative changes and to constantly monitor them on the part of entrepreneurs. It is also necessary to highlight the possibility of compensation for damages caused by Russian aggression to enterprises from the Russian Federation. In order to receive compensation for the damage caused, it is important to document and assess the damage caused by the war, and in the future to use all available instances: national justice bodies, as well as international ones, in particular the

European Court of Human Rights, which will consider the case and award just satisfaction.

Conclusions

The research work carried out made it possible to analyse and understand the main features and characteristic features of the institution of bankruptcy in Ukraine under the conditions of a full-scale invasion of the Russian Federation. It was found that the bankruptcy procedure is currently regulated by the Code of Ukraine on Bankruptcy Procedures, which does not contain special norms that would take into account the state of war and the impossibility of fulfilling the duties and powers of the arbitration manager and other authorized subjects. Statistical data are provided, which indicate that during a certain period during the war, the number of reports and announcements regarding insolvency and bankruptcy increased on the territory of Ukraine. It is stated in the study that growth may be due to the danger of destruction of production facilities. The existence of possibilities of compensation for damages caused by the Russian Federation is indicated. A number of legislative initiatives to improve bankruptcy legislation were analysed. In particular, most of the bills are under consideration in committees or their consideration is suspended due to the fact that they contain contradictory provisions, for example, a moratorium on the opening of proceedings. Legislative changes adopted in April 2023 improved only the form of bankruptcy proceedings, but did not in any way specify the specifics of the consideration of cases during martial law.

It has been found that preventive measures to prevent the company from going bankrupt can include creating a favourable working atmosphere, increasing the level of employee motivation, as well as financial literacy and personnel management. The main aspects that are recommended to be taken into account during the process of rulemaking and improvement of national bankruptcy legislation are proposed, and the need to take into account the foreign experience of the regulation of the relevant institution is emphasized, in particular, the experience of Germany, which embodies the provisions of the EU Directive from 2019. In the future, it is advisable to investigate the following tangential topics: the impact of global economic crises on the institution of bankruptcy; comparative analysis of bankruptcy definition models: experience for Ukraine; the use of innovative technologies in the field of bankruptcy forecasting in wartime conditions.

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Conflict of interest

None.

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Проблеми правового регулювання банкрутства під час збройного конфлікту

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Анотація. Актуальність дослідження зумовлено невідповідністю національного законодавства України про банкрутство сучасним умовам на території держави, які пов'язані з повномасштабним вторгненням Російської Федерації. Воєнний стан зумовлює високі ризики знищення підприємств середнього, малого та великого бізнесу, зокрема на непідконтрольних та тимчасово окупованих територіях. Мета дослідження – обґрунтувати необхідність вдосконалення національного законодавства про банкрутство, підвищення ефективності механізмів реалізації прав, виконання обов'язків та захисту інтересів суб'єктів господарювання в умовах військового протистояння. Основні методи, використані в роботі: історичний, порівняльний, статистичний, метод аналізу, синтезу. Досліджено законодавство, що регулює правовідносини щодо банкрутства, з'ясовано, які суб'єкти господарської діяльності перебувають під ризиком банкрутства, досліджено вплив війни на стан правового регулювання господарської сфери. Зроблено висновок щодо основних недоліків національного законодавства про банкрутство. Також було досліджено питання можливості збереження подальшої репутації боржника та пропорційного задоволення прав кредиторів шляхом дотримання процедури банкрутства, яка була розроблена відповідно до сучасних умов. Указано на можливість відшкодування збитків з боку країни-агресора для тих підприємств, які зазнали втрат та руйнувань внаслідок російської військової агресії. Обговорено доцільність запровадження мораторію на банкрутство та основні недоліки такого виду обмежень. Запропоновано подальші напрями вдосконалення та підвищення рівня ефективності законодавчо передбачених механізмів реалізації процедури банкрутства в умовах війни на території України. Результати наукової роботи можуть бути використані як теоретичне підґрунтя для подальших законодавчих розробок у сфері банкрутства

Ключові слова: воєнний стан; процедура банкрутства; правовідносини; економічні санкції; суб'єкти господарювання