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## SOME PROCEDURAL FEATURES OF THE CONCLUSION OF A AMICABLE AGREEMENT IN INSOLVENCY CASES

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Salimova Iroda Mamayusufovna

Phd In Law, Acting Associate Professor, Department Of Civil Procedural And Economic Procedural Law, Tashkent State University Of Law, Tashkent, Uzbekistan

### ABSTRACT

The article analyzes the procedural order of concluding an amicable agreement in insolvency cases. Taking into account the procedural norms of the economic procedural legislation of the Republic of Uzbekistan, also taking into account the features established by the Law of the Republic of Uzbekistan “On Insolvency”, some procedural features of concluding an amicable agreement in insolvency cases have been identified.

### KEYWORDS

Conclusion, amicable agreement, insolvency, debtor, creditor, third party, terms of amicable agreement, court, definitions.

### INTRODUCTION

The amicable agreement is an agreement between the parties to end the litigation on the basis of mutual concessions. Its essence is to end the process by peaceful settlement of the dispute, achieving certainty in relations between the parties on the basis of the free will of the parties themselves. The amicable agreement is an agreement between the parties to terminate the

dispute on the basis of the voluntary settlement of mutual claims and the approval of mutual concessions, which is one of the procedural means of protecting subjective rights. An amicable agreement is the most cost-effective way to prevent the bankruptcy of a debtor, restore its solvency, and settle property disputes with creditors. [1].

According to Kabanov O.Yu. “An amicable agreement is not just a way to resolve a dispute, but actually a restorative procedure. In this category of cases, it is used for the purpose of preserving the debtor, restoring its solvency and maintaining it as an independent economic entity” [2].

The procedure for concluding an amicable agreement in insolvency cases is regulated by the general rules of the Economic Procedure Code of the Republic of Uzbekistan[3]. and Chapter 12 (Settlement Agreement) of the Law “On Insolvency” of the Republic of Uzbekistan[4]. Based on the Insolvency Law, an amicable agreement means an agreement between the parties to terminate the insolvency proceedings on the basis of mutual concessions.

In accordance with Art. 161 The Law “On Insolvency” of the Republic of Uzbekistan at any stage of the court's consideration of an insolvency case, the debtor and creditors have the right to conclude an amicable agreement. Thus, an amicable agreement can be concluded on behalf of creditors or debtors.

The decision to conclude an amicable agreement on behalf of the creditors is taken by the meeting of creditors. The decision of the meeting of creditors to conclude an amicable agreement is adopted by a majority vote of the creditors of the first, second and third groups and is considered adopted provided that all creditors on obligations secured by the pledge of the debtor's property voted for it. The powers of the representative of the creditor to vote on the issue of concluding an amicable agreement must be specifically provided for in his power of attorney.

Creditors who will participate in the amicable agreement should be familiarized with the rationale for the terms of the amicable agreement in advance,

before the meeting, in order to assess the possibility of restoring the debtor's solvency on the conditions presented. Otherwise, creditors may simply not vote for the conclusion of a settlement agreement[4].

On behalf of the debtor, an amicable agreement may be concluded:

- An individual entrepreneur;
- The head of the debtor;
- External manager;
- Liquidation manager;
- Financial manager.

The decision to conclude an amicable agreement on the part of the debtor is made during the procedures of supervision and judicial sanitation by the head of the debtor, and in the event of his removal from the performance of his duties, by the court manager.

If the amicable agreement is a transaction for the debtor, which, in accordance with the legislation or the debtor's constituent documents, is made by decision (approval) of the debtor's management bodies, the decision to conclude an amicable agreement on behalf of the debtor may be taken after the appropriate decision (approval). When concluding an amicable agreement in the procedures of external management and liquidation proceedings, such a decision (approval) is not required.

It is also allowed to participate in the amicable agreement of third parties who assume the rights and obligations provided for by the amicable agreement.

Third parties have the right to provide guarantees or guarantees that the debtor will fulfill monetary obligations and (or) the obligation to pay taxes and fees under an amicable agreement, as well as otherwise ensure its proper fulfillment. If the condition

of the amicable agreement is the alienation of the debtor's property in favor of a third party, then it can be concluded only on the condition that the said property is provided by the third party as a pledge that ensures the repayment of creditors' claims.

When concluding an amicable agreement with the participation of third parties who are interested in relation to the debtor, the court administrator or the creditor, the amicable agreement must contain information that it is a transaction in which there is an interest, indicating the nature of such interest. The amicable agreement extends to the claims of creditors, the due date for which has come on the date of the introduction of the relevant insolvency procedure, with the exception of obligations that have arisen after the initiation of an insolvency case.

The amicable agreement is subject to approval by the court, as a result of which a ruling is issued, which indicates the termination of the proceedings on the insolvency case. If an amicable agreement is concluded in the course of liquidation proceedings, the court issues a ruling approving the amicable agreement, which indicates that the decision to declare the debtor bankrupt and commence liquidation proceedings is not subject to execution.

The amicable agreement enters into force for the debtor, creditors, as well as third parties participating in the amicable agreement, from the date of its approval by the court and is binding on them. A unilateral refusal to execute an amicable agreement that has entered into force is not allowed.

The creditor who voted for the conclusion of the amicable agreement, the founders (participants) or the owner of the debtor's property shall have the right to fulfill the debtor's monetary obligations and (or) tax

and duty obligations to the creditors who voted against the conclusion of the amicable agreement or did not take part in the voting. In this case, the creditor is obliged to accept the performance offered for the debtor, and the person who performed the obligations of the debtor is transferred the rights of the creditor's claim under the obligation.

The amicable agreement is concluded in writing.

On behalf of the debtor, the amicable agreement is signed by the debtor - an individual entrepreneur, the head of the debtor or the court administrator, respectively. On behalf of the creditors, the amicable agreement is signed by a person authorized by the meeting of creditors.

If third parties participate in the amicable agreement, on their behalf the amicable agreement is signed by these persons or their representatives.

The amicable agreement must contain provisions on the amount, procedure and terms for the fulfillment of the debtor's monetary obligations and (or) on the termination of the debtor's monetary obligations by providing a compensation in return, novation of the obligation, by forgiveness of the debt or by other means provided for by law.

The amicable agreement may contain the following conditions:

- On the postponement or installment plan of the fulfillment of monetary obligations;
- On the assignment of the rights of the debtor's claim in favor of another;
- On the fulfillment of the debtor's monetary obligations by third parties;
- About a discount from a debt;

- On changing the terms and procedure for paying taxes and fees;
- On satisfaction of creditors' claims in other ways that do not contradict the law.

The conditions of an amicable agreement for creditors who did not take part in voting on the issue of concluding a settlement agreement, as well as those who voted against its conclusion, cannot be worse than for creditors of the same order who voted for its conclusion.

Unless otherwise provided by the amicable agreement, the pledge of the debtor's property, which ensures the fulfillment by the debtor of the obligations assumed, shall be preserved.

The amicable agreement can be approved by the court only after the following expenses have been paid and the requirements have been satisfied:

- Court expenses;
- Expenses related to the payment of remuneration to court administrators;
- Current utility and operating payments;
- Expenses for insurance of the debtor's property;
- Claims for the debtor's obligations arising after initiation of insolvency proceedings;
- Claims of citizens to whom the debtor is liable for causing harm to life or health in accordance with the law.

In addition, the amicable agreement can be approved by the court only after the repayment of claims on payment documents providing for the issuance of funds for the payment of wages.

An exception is the claims of creditors filed after the deadline set in the publication for the commencement of liquidation proceedings for filing creditors' claims, as

well as claims for taxes and fees that arose after the commencement of liquidation proceedings. These claims, irrespective of the period of their presentation, are satisfied after the satisfaction of the above listed creditors' claims.

Based on the foregoing, the conclusion can list the following procedural features of the conclusion of an amicable agreement in insolvency cases:

- the conclusion of an amicable agreement is allowed at any stage of the consideration of the case;
- the parties to the amicable agreement are the debtor and the creditor;
- on behalf of the debtor, an amicable agreement may be concluded by an individual entrepreneur; the head of the debtor; external manager; liquidation manager; financial manager;
- participation of third parties in the conclusion of an amicable agreement is allowed;
- the amicable agreement can be approved by the court only after the repayment of the expenses determined by law and the satisfaction of claims;
- the amicable agreement may contain conditions related to legal costs, satisfaction of claims, debts, etc.
- the amicable agreement is concluded in writing;
- the amicable agreement is approved by the court with the issuance of a ruling.

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