ISSN NO: 2769-996X
Date of Publication: 06-09-2023

The concept and significance of corporate disputes: national and foreign experience.

Uktamov Umidjon Shavkat o'g'li
Fourth-year student at Public Law Faculty in Tashkent State University of Law, Tashkent city, Uzbekistan.

Abstract. The article deals with the issues of jurisdiction of corporate disputes, the concept and meanings, as well as foreign experience in resolving corporate disputes.

Keywords: corporate dispute, founder, owner, conflict, economic court.

As we know, economic courts administer justice in the sphere of economic relations. This area of legal relations is quite wide and falls within the competence of consideration in economic courts[1] .

At the beginning, we may have the following question: "What cases are subject to consideration in economic courts, and which are not?". So, the answer to this question is presented in detail in Article 25 of the Economic Procedure Code of the Republic of Uzbekistan. In accordance with this rule, the economic courts of the Republic of Uzbekistan are subordinate to:

• cases on disputes arising in the economic sphere from civil, administrative and other legal relations between legal entities and citizens engaged in entrepreneurial activities without forming a legal entity and having the status of an individual entrepreneur acquired in the manner prescribed by law, as well as citizens who are parties in the consideration of cases on corporate disputes;

• cases on the establishment of facts that are important for the emergence, change or termination of the rights of legal entities and individual entrepreneurs in the economic sphere;

• bankruptcy cases;

• cases related to arbitration proceedings;

• cases on corporate disputes, except for labor disputes;

• cases on investment disputes;

• competition cases;

• cases on recognition and enforcement of decisions of foreign courts and arbitrations.

Now it becomes known to us that even if the dispute proceeds from civil, administrative and other legal relations between legal entities and citizens, but at the same time arises in the economic sphere, then this case is subject to consideration in the economic court[2] .

Further, we propose to consider a specific type of disputes, the resolution of which is also within the powers of the economic courts of the Republic of Uzbekistan - corporate disputes.

Then the question arises: "What disputes are recognized as corporate, and why are they called so?"

In simple words, these are contentious legal relations that arise within a certain, specific corporation, organization, or rather a legal entity[3] .

To begin with, we should consider the concept of "legal entity". So, in accordance with the national Civil Code of the Republic of Uzbekistan, a "legal entity" is an organization that owns, manages or manages separate

[1] Барышова М. В. и др. Социальное предпринимательство: научные исследования и практика. – 2019.

[2] BANKRUPTCY OF A LIQUIDATED BUSINESS ENTITY: PROBLEMS AND SOLUTIONS //Norwegian Journal of development of the International Science. – 2021. – №. 2021. – С. 45

[3] Фроловский Н. Г. Понятие корпоративного спора //Законы России: опыт, анализ, практика. – 2010. – №. 6. – С. 11-16.

ISSN NO: 2769-996X
Date of Publication: 06-09-2023

property and is liable for its obligations with this property, can acquire and exercise property and personal non-property assets on its own behalf. rights, bear obligations, be a plaintiff and defendant in court4[4].

According to the legislation of the Republic of Uzbekistan, legal entities are divided into two types: commercial organizations (organizations whose main goal is to make a profit) and non-profit organizations (organizations that do not pursue profit as their main goal)[5] .

Based on this, we can conclude that corporate disputes are not only disputes that have arisen in commercial enterprises, corporations, but also disputes that have arisen in non-profit organizations, and if these legal relations are governed by corporate law, they will also be recognized as corporate disputes[6].

It is worth noting that a labor dispute between an employee and an employer, even if this dispute arose within the same organization, cannot be considered corporate[7]. Therefore, this dispute is not under the jurisdiction of the economic court and is subject to consideration in civil courts.

Most often, so to speak, the "subjects" of corporate disputes are the founders, owners, shareholders, managers and other persons of organizations - the main feature of the conflict is that it develops within one legal entity[8].

As a matter of fact, the presence of a corporate dispute between the founders (participants) of a legal entity indicates the presence of significant contradictions in matters of management, disposal of assets, as well as other issues related to the internal and external activities of the organization[9].

Article 30 of the Economic Procedural Code of the Republic of Uzbekistan lists in detail cases on corporate disputes. So, corporate litigation cases include:

• disputes related to the creation, reorganization and liquidation of a legal entity1[10];

• disputes related to the ownership of shares, shares in the authorized capital (authorized capital) of business companies and partnerships, shares of members of cooperatives, the establishment of their encumbrances and the implementation of the rights arising from them, with the exception of disputes arising in connection with the division of inherited property or the division of common property spouses, which includes shares, shares in the authorized capital (authorized capital) of business companies and partnerships, shares of members of cooperatives;

• disputes on claims of participants (founders, members) of a legal entity on the invalidation of transactions made by a legal entity and (or) the application of the consequences of the invalidity of such transactions;

• disputes related to the issue of securities, including contestation of decisions of the issuer's management bodies, contestation of transactions made in the process of placement of equity securities, reports (notifications) on the results of the issue (additional issue) of equity securities1[11];

[4] ПРАВОВЫЕ ПОСЛЕДСТВИЯ БАНКРОТСТВА ИНДИВИДУАЛЬНОГО ПРЕДПРИНИМАТЕЛЯ ИЛИ ФИЗИЧЕСКОГО ЛИЦА, УТРАТИВШЕГО СТАТУС ИНДИВИДУАЛЬНОГО ПРЕДПРИНИМАТЕЛЯ //Polish Journal of Science. – 2021. – №. 38-2. – С. 20-24

[5] Довлатова Г. П. и др. Инновации, тенденции и проблемы в области экономики, управления и бизнеса. – 2021.

[6] Bankrotlik to ‘g ‘risidagi ishlarda prokuror ishtirok

[7] The Concept and Characteristics of Bankruptcy Procedures for Business Entities With the Status of a Legal Entity //Middle European Scientific Bulletin. – 2022. – Т. 20. – С. 143-147.

[8] Esenbekova P., Ibratova F., Rakhimkulova L. CIVIL LAW PROBLEMS OF BANKRUPTCY OF AN INDIVIDUAL ENTREPRENEUR OR AN INDIVIDUAL WHO HAS LOST THE STATUS OF AN INDIVIDUAL ENTREPRENEUR //BIOLOGICAL SCIENCES. – 2021. – №. 38-2. – С. 20-24.

[9] Болдырев В. А. Корпоративные отношения и корпоративные споры //Юрист. – 2013. – №. 16. – С. 31-33.

[10] Esenbekova F. T. et al. Features of the approval of the world agreement by the economic court: practice and theory //International Journal of Professional Science. – 2021. – №. 5. – С. 90-96.

[11] Лаптев В. А. Понятие корпоративных конфликтов. Разграничение понятий" корпоративный конфликт" и" корпоративный спор"," корпоративное поглощение" и" корпоративный захват" //Арбитражный и гражданский процесс. – 2010. – №. 9. – С. 28-32.

ISSN NO: 2769-996X
Date of Publication: 06-09-2023

• disputes arising from the activities of nominal holders of securities related to the registration of rights to shares and other securities, with the exercise by them of other rights and obligations provided for by law in connection with the placement and (or) circulation of securities;

• disputes about convening a general meeting of participants of a legal entity;

• disputes on appealing against decisions of the governing bodies of a legal entity.

A fair question arises: “Why do we need corporate disputes, who needs them?”. So, they are needed primarily by the founders, members of the organization. Why? Because everything that concerns the consistency of actions in the management of the organization - all this in the aggregate constitutes corporate relations. The reasons for the emergence of corporate legal relations can be agreements related to the fact that the founder and participants sign among themselves, the adoption of decisions related to the alienation, the acquisition of property[12]. Violation of the interests of one of the participants in the organization, related to the fact that some property has retired and thus violated the property interests of one of the participants or even the corporation itself. An example may be such actions as the destruction of the logistics, production chain of the enterprise or a significant underestimation of the value of this property. And also in cases where the value of certain property was changed in a strange way: the price was underestimated relative to the market, or certain property was purchased at an inflated price. In addition, corporate law also regulates such disputes arising from the disappearance of property due to some kind of transaction, for which none of the founders (participants) gave approval as for a major transaction. It is not uncommon for cases where the reporting of the organization's activities to the above-mentioned persons in an unreliable or untimely manner has served to cause corporate disputes. Another example is the cases when a decision was made to liquidate or reorganize a legal entity, but with a violation of the interests of one of the participants, who could influence the relevant situation if he knew, voted in the decisionmaking process. All these examples all together holistically constitute corporate relations, when the participants, founders of the organization can influence and control the economic and legal activities of the organization itself.

Of course, we can also talk here about the losses and harm caused by the head of a certain organization to the property, reputation of the company and directly to its participants and founders by their imprudent, dishonest and harmful actions. This huge spectrum of life of a corporation is covered in essence by the norms of corporate law and represents corporate disputes, the correct resolution of which, as we noted above, is within the powers of the economic court[13].

Based on this, we understand that managers, founders and all other responsible persons who can make decisions for the organization or influence its decisions are obliged to act in relation to their organization as reasonably and as prudently as possible, while maintaining all documentation, all evidence that that the actions were subordinated exclusively to the interests of the company and pursued primarily economic benefits, while respecting the charter of this legal entity.

Corporate disputes are most often a sign of a lack of mutual respect between the members of a society. Almost any corporate dispute is the inability to maintain a constructive dialogue and jointly fulfill the obligations to achieve the main goal in the functioning of the organization[14].

It's no secret that in the context of a gradual transition to market relations and the emergence of free economic entities, a significant role was played by the study and exhaustion of foreign experience related to legislation, as well as their implementation in adapting the economy of the Republic of Uzbekistan. Of particular

[12] Нефедова К. В. О соотношении понятий «Корпоративный спор»,«Корпоративный конфликт»,«Корпоративное правоотношение» //Вестник Челябинского государственного университета. – 2015. – №. 17 (372). – С. 103-107.
[13] Ibratova F. B. et al. Special features of modern legal systems: cases and collisions. – 2017.
[14] Уксусова Е. Е. Категория" корпоративные споры" в арбитражном процессуальном законодательстве: проблемы применения //Законы России: опыт, анализ, практика. – 2012. – №. 1. – С. 71-79.

ISSN NO: 2769-996X
Date of Publication: 06-09-2023

note is the sphere of regulation of disputes arising in corporate law, which every year becomes comprehensive and significant[15].

In the era of globalization, the industry has undergone many transformations. In particular, corporate law and the disputes arising from it have fundamentally changed in developed countries. The most entertaining is the study of the experience of countries such as the US and the UK. As we know, Great Britain is considered the ancestor of the corporate law of the modern world. In our legislation, there are frequent cases of using terms borrowed from English law, such as acquisitions and mergers of companies (mergers and acquisitions)[16]. We can study the merger process using the example of the United States: in accordance with the Hart-Scott-Rodina legislation of 1976, a period of 30 days was set, during which the initiator must submit an application to the Federal Trade Commission and the US Department of Justice. It would be advisable to pay attention to the fact that this procedure, or rather the process of merger or acquisition, can significantly affect the environment for a healthy competitive attitude of business entities. In order to prevent, in the US there is a rule that stabilizes competitive rivalry. The Clayton Act of 1914, as amended and amended in 1950, states that the Federal Trade Commission has the right to prohibit the purchase of shares by a corporation in another against the background of the possible occurrence of unfavorable conditions for healthy competition. In this country, also, a system of direct and derivative claims was developed to manage corporations in order to ensure the right of justice. In 1832, the possibility of using statements of claim was recognized. The most interesting is the division into categories of these claims:

1. Actions to compel directors to act on behalf of a corporation against a third party;
2. Actions on behalf of a corporation against directors in breach of their fiduciary duties[17].

In non-mainland Europe, there are a number of laws that affect the enforcement and settlement of corporate disputes. As noted in UK law, the Commission on fair competition in entrepreneurial activities (Office of Fair Trading) undertakes to monitor information about planned and possible mergers and acquisitions. In order to avoid problems with the laws in the future, companies provide all kinds of information about upcoming mergers in advance. But as for the regulation of the processes of mergers and acquisitions of companies, we need to remember the functioning of such a legislative act as the Code of Mergers and Acquisitions (City Code on Takeovers and Mergers). The main purpose of this legislative act is to ensure proper protection of the members of the joint-stock company of the acquired companies. The City Code on Takeovers and Mergers sets a rather tight takeover schedule, giving shareholders sufficient time to make a reasonable and informed decision and limiting the maximum duration of the takeover process in order to prevent the company from being in a state of legal and economic uncertainty for a long time and, accordingly, negative consequences for the state of the company. The role of the Commission on Fair Competition in Entrepreneurship is also great in this process. It must, within a period of not more than twenty days, consider the notice of merger received by it from the company. And then, if the transaction is approved, it is sent to the Secretary of State for consideration.

In the UK, there is also a Commission on Mergers and Acquisitions (Panel on Takeovers and Mergers), created in 1968. Being a self-regulatory and independent organization, it can significantly influence public relations related to corporate law. Its influence is high on the perception and on the minds of shareholders, in general and on the entire population. For example, in the event that a certain company in the merger process is involved outside the conditions described in the aforementioned code, or their actions do not comply with the

[15] . ПРАВОВЫЕ ПРОБЛЕМЫ МИРОВОГО СОГЛАШЕНИЯ ПРИ РАССМОТРЕНИИ ДЕЛ О БАНКРОТСТВЕ В ЭКОНОМИЧЕСКИХ СУДАХ РЕСПУБЛИКИ УЗБЕКИСТАН //ПЕРСПЕКТИВЫ РАЗВИТИЯ НАУКИ В СОВРЕМЕННОМ МИРЕ. – 2019. – С. 163-170.

[16] Андреева А. Р. Правовое регулирование корпоративных конфликтов в зарубежных странах (на примере Великобритании и США) //Юриспруденция. – 2010. – Т. 20. – №. 4. – С. 127-132.

[17] Бойко Т. Защита прав и интересов миноритарных участников непубличного общества в праве России, США и Великобритании. – Litres, 2021.

ISSN NO: 2769-996X
Date of Publication: 06-09-2023

norms of this Code, it may publish articles with a negative connotation, thereby damaging the reputation of the acquiring corporation[18].

So, summing up all of the above, we can come to the conclusion that the corporate law industry in the UK and the USA is comprehensively and comprehensively regulated, where there are:

- monitoring of the legislative level to improve corporate law;
- judicial and pre-trial procedures for resolving disputes that arise on the basis of corporate disputes;
- activities of independent and self-regulatory organizations that can significantly influence public opinion and the procedures themselves arising in this law, etc.

From the point of view of theory and based on a purely personal opinion, it would be very advisable for countries in which economic law is developing at a rapid pace to pay attention to the experience of the above two leading giant countries, the progenitors of corporate law, in particular, in the sphere of influence of non-state actors capable of to be a decisive force in the regulation of problems arising from corporate disputes.

References:

1. Барышова М. В. и др. Социальное предпринимательство: научные исследования и практика. – 2019.
2. BANKRUPTCY OF A LIQUIDATED BUSINESS ENTITY: PROBLEMS AND SOLUTIONS //Norwegian Journal of development of the International Science. – 2021. – №. 2021. – С. 45.
3. Фроловский Н. Г. Понятие корпоративного спора //Законы России: опыт, анализ, практика. – 2010. – №. 6. – С. 11-16.
4. ПРАВОВЫЕ ПОСЛЕДСТВИЯ БАНКРОТСТВА ИНДИВИДУАЛЬНОГО ПРЕДПРИНИМАТЕЛЯ ИЛИ ФИЗИЧЕСКОГО ЛИЦА, УТРАТИВШЕГО СТАТУС ИНДИВИДУАЛЬНОГО ПРЕДПРИНИМАТЕЛЯ //Polish Journal of Science. – 2021. – №. 38-2. – С. 20-24.
5. Довлатова Г. П. и др. Инновации, тенденции и проблемы в области экономики, управления и бизнеса. – 2021.
6. Bankrotlik to ‘g ‘risidagi ishlarda prokuror ishtiroki.
7. The Concept and Characteristics of Bankruptcy Procedures for Business Entities With the Status of a Legal Entity //Middle European Scientific Bulletin. – 2022. – Т. 20. – С. 143-147.
8. Esenbekova P., Ibratova F., Rakhimkulova L. CIVIL LAW PROBLEMS OF BANKRUPTCY OF AN INDIVIDUAL ENTREPRENEUR OR AN INDIVIDUAL WHO HAS LOST THE STATUS OF AN INDIVIDUAL ENTREPRENEUR //BIOLOGICAL SCIENCES. – 2021. – №. 38-2. – С. 20-24.
9. Болдырев В. А. Корпоративные отношения и корпоративные споры //Юрист. – 2013. – №. 16. – С. 31-33.
10. Esenbekova F. T. et al. Features of the approval of the world agreement by the economic court: practice and theory //International Journal of Professional Science. – 2021. – №. 5. – С. 90-96.
11. Лаптев В. А. Понятие корпоративных конфликтов. Разграничение понятий" корпоративный конфликт" и" корпоративный спор"," корпоративное поглощение" и" корпоративный захват" //Арбитражный и гражданский процесс. – 2010. – №. 9. – С. 28- 32.
12. Нефедова К. В. О соотношении понятий «Корпоративный спор»,«Корпоративный конфликт»,«Корпоративное правоотношение» //Вестник Челябинского государственного университета. – 2015. – №. 17 (372). – С. 103-107.
13. et al. Special features of modern legal systems: cases and collisions. – 2017.

[18] Андреева А. Р. Правовое регулирование корпоративных конфликтов в зарубежных странах (на примере Великобритании и США) //Юриспруденция. – 2010. – Т. 20. – №. 4. – С. 127-132.

ISSN NO: 2769-996X
Date of Publication: 06-09-2023

14. Уксусова Е. Е. Категория" корпоративные споры" в арбитражном процессуальном законодательстве: проблемы применения //Законы России: опыт, анализ, практика. – 2012. – №. 1. – С. 71-79.
15. ПРАВОВЫЕ ПРОБЛЕМЫ МИРОВОГО СОГЛАШЕНИЯ ПРИ РАССМОТРЕНИИ ДЕЛ О БАНКРОТСТВЕ В ЭКОНОМИЧЕСКИХ СУДАХ РЕСПУБЛИКИ УЗБЕКИСТАН //ПЕРСПЕКТИВЫ РАЗВИТИЯ НАУКИ В СОВРЕМЕННОМ МИРЕ. – 2019. – С. 163-170.
16. Андреева А. Р. Правовое регулирование корпоративных конфликтов в зарубежных странах (на примере Великобритании и США) //Юриспруденция. – 2010. – Т. 20. – №. 4. – С. 127-132.
17. Бойко Т. Защита прав и интересов миноритарных участников непубличного общества в праве России, США и Великобритании. – Litres, 2021.
18. Андреева А. Р. Правовое регулирование корпоративных конфликтов в зарубежных странах (на примере Великобритании и США) //Юриспруденция. – 2010. – Т. 20. – №. 4. – С. 127-132.