

CRIMINAL LIABILITY FOR FRAUDULENT ENTREPRENEURSHIP

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Abstract

This article examines the concept of "fake entrepreneurship" and its criminal liability under the law. It also examines the criminal aspects of fraud, including tax evasion, falsification of business activities, and illegal profit-making. It also outlines the forms of fake entrepreneurship, legal mechanisms for their detection, and penalties established by criminal law.

Keywords: Fraudulent entrepreneurship, criminal liability, tax evasion, fraudulent establishment of companies, fraud, economic crimes, business fraud, financial responsibility, entrepreneurial activity, violation of the law, legal liability, financial indicators and the Criminal Code.

Introduction

The crime of fraudulent entrepreneurship arises from the social relations that ensure the activities of enterprises or other business entities established by law, their charter[1]. This crime is expressed in the formation of enterprises or organizations engaged in entrepreneurship without the purpose of carrying out the activities specified in the Regulation. According to Article 40 of the FDA RU, a profit can be a legal entity, which is the main purpose of its activity (commercial organization) or whose profit is not aimed at profit (non-commercial organization).

A legal entity being a commercial organization may form a business partnership and a company, a production cooperative, a unitary enterprise and other forms provided for by the law.

A legal entity, which is not a commercial organization, may be established in the form of a public association, a social fund and an institution financed by the owner, as well as in the other form provided for by law.

And according to Article 41 of the FC RU a legal entity acquires the capacity of civil law in accordance with the purposes of its constituent documents. The special right and competence of the legal entity shall be determined by its charter, statute or ordinance. Every structured enterprise or other business structure must be engaged mainly in the types of activities set forth in its statute. In fake entrepreneurship, the founders do not pursue the purpose of carrying out the activities specified in their charter, but the enterprise is structured for other purposes.

The fact of formation of the enterprise is complete or based on law, its charter, the necessary constituent documents are adopted, registered, however, when the time comes to start work,



such enterprise will not engage in the activities specified in its charter and will engage in activities not specified in the charter [2].

The absence of the purpose of carrying out the activities defined by statute is manifested in the failure to fulfill the obligations specified in the constituent documents. At the time of the establishment of the enterprise or other business structure, the crime is deemed to have been completed, except for the purpose of carrying out the activities specified in the regulation.

According to Article 1 of the Law of the Republic of Uzbekistan "On Bankruptcy" dated May 5, 1994, bankruptcy means the debtor's inability to satisfy creditors' requirements for payment of goods (works, services), including mandatory payments to the budget and extra-budgetary funds due to exceeding the debtor's obligations [3].

From the date of commencement of the creditors' claims, the discovery of the business entity's inability or inability to fulfill them within three months is considered as an external sign of bankruptcy. This circumstance also indicates the inability of the entity to meet its obligations by providing a suspension of payments, i.e., non-payment of current payments. This situation may be the basis for starting bankruptcy proceedings. As a rule, in such a situation, the presence of indebtedness on loans and financial problems that caused a failure in payments are recognized as signs of bankruptcy.

At the same time, non-fulfillment of obligations within the time frame prescribed by law plays an important role in verifying the financial stability of private and legal entities and ensuring the sustainability of the private sector. If a business entity or business entity becomes indebted and fails to make payments within the stipulated time frame, this indicates that they are in financial difficulties and may lead to the start of bankruptcy proceedings.

Analysis of financial stability helps not only to identify bankruptcies, but also to determine the necessary measures to maintain economic stability. Also, such situations can affect the overall development of the private sector, as financial recovery and stability support different sectors of the economy. These processes encourage companies to properly assess their economic capacity and financial commitments.

The business entity is considered to have been bankrupt after it officially declares it bankrupt during voluntary liquidation.

Any person who is 16 years of age in connection with this crime and who has formed a fraudulent enterprise can be prosecuted.

Prosecution for violation of the rules of business:

a) as a result of any type of entrepreneurial activity by refusing to register in accordance with the established procedure;

b) if you have received a permit to engage in entrepreneurial activities, violation of the obligations set forth in the law arises [4]. Consequently, engaging in trade or brokering activities for the purpose of profit or profit without registering in the prescribed manner will be subject to criminal liability. According to Article 186 of the Criminal Code of the Republic of Uzbekistan: "Refusing to register in the prescribed manner, engaging in trade or intermediary activities for the purpose of obtaining uncontrolled profit (income), if committed after the imposition of an administrative penalty for such actions, shall be deprived of certain rights for up to three years, a fine in the amount of up to twenty-five times the



minimum monthly wage or correctional work or property for up to two years confiscated and punishable by up to six months in prison.

Carrying out trade or intermediary activities in order to obtain uncontrolled profit (income) in order to evade registration in the prescribed manner:

- a) by a dangerous recidivist;
- b) in substantially amounts;
- c) if committed by a group of persons by conspiracy to commit a crime, it shall be punishable by deprivation of a certain right for up to three years, a fine or confiscation of property in the amount of seventy-five to one hundred times the minimum monthly wage, and imprisonment for up to three years" [5].

If these actions, that is, illegal settlement with trade or brokerage activities, receive a large amount of profit (income); If committed by an organized group or in the interests of the brothers, the property is confiscated and punishable by imprisonment from three to five years. In addition, the law establishes liability for fraudulent entrepreneurship. Article 179 of the Criminal Code of the Republic of Uzbekistan, which is called "fraudulent entrepreneurship", states: "Fraudulent entrepreneurship, that is, the formation of enterprises and other business organizations for the purpose of obtaining loans, loans, exemption of profit (income) from taxes, reducing taxes or obtaining other property benefits, a fine from fifty to one hundred times the minimum monthly wage, or is punishable by deprivation of certain rights for up to five years or correctional work for up to three years or confiscation of property and imprisonment for up to five years" [6].

In order to successfully compete in business, entrepreneurs are constantly trying to differentiate their products or services from other competitors in the market. Entrepreneurs, playing in a competitive environment, always seek to improve themselves and increase their competitiveness. They carry out activities such as improving the quality of the product or service, introducing new technologies, making prices more competitive, improving marketing and advertising strategies. This process, in turn, develops the market and becomes an important factor of economic growth.

However, in some cases, in a competitive environment, entrepreneurs cannot successfully manage their activities. They can be devastated by factors such as management errors, lack of funds, poor decision-making, or failure to analyze the market in a timely manner. In this case, entrepreneurs will not be able to repay their debts, which will lead to a cessation of their activities. A state of insolvency can end with the entrepreneur going bankrupt and leaving the market.

Thus, in order to successfully compete, entrepreneurs must ensure not only modern management styles, but also in-depth market studies, constant analysis of economic conditions and prompt customer response. Their success depends on long-term strategic planning, adaptability to social and economic changes, as well as implementation of innovative approaches.

A bankrupt entrepreneur must hide it and face the fact that for his own benefit there is no harm to the interests of another person, that is, the interests of creditors. Otherwise, liability will be held against him. Consequently, Article 181 of the Criminal Code of the Republic of



Uzbekistan states: "If a business entity has lost its economic solvency by providing untrue information and documents, distorting accounting statements, or otherwise intentionally concealing economic disadvantage, a fine of fifty to 100 times the minimum monthly salary or five times the minimum monthly salary is punishable by deprivation of certain rights for up to a year or correctional work for up to three years, or confiscation of property and imprisonment for up to five years."

The subjective aspect of the crime, which depends on the purpose and intention of the person who committed it, must always be committed intentionally. If a criminal seeks to carry out a certain type of activity and thereby aims to profit illegally, this proves that he is committing an intentional crime. Such as not engaging in the activities specified in the Statute or obtaining a loan for tax exemption are necessary subjective signs of a crime, since in these cases the goal of the person is to obtain and achieve property benefits.

The objective side of the crime shows the planned purpose of the activity or business activity carried out, that is, the presence of illegal and harmful elements in the work of the person who used it to commit the crime. For example, deviation from the performance of the type of activity specified in the statute or the formation of illegal enterprises constitute the objective aspect of the crime. This is an example of misleading an activity in a specific way to achieve the goal of the subject who committed the crime.

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