

Towards the Modern Approach to Rescuing Financially Distressed Enterprises

نحو الاتجاه الحديث لإنقاذ المؤسسات المتعثرة ماليا

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Abstract :

Commercial and economic institutions play an essential role in society and the economy; however, they may face financial difficulties. Traditionally, bankruptcy procedures were applied to these institutions in cases of payment default. However, this system often resulted in negative social and economic impacts. Consequently, modern mechanisms have been developed to facilitate early detection of financial distress, thus allowing for preventive measures to avoid insolvency and facilitate the recovery of distressed enterprises.

Keywords: Distressed enterprise; Early warning system; Amicable settlement; Protective settlement; Judicial review.

ملخص:

تكتسي المؤسسات التجارية أو الاقتصادية أهمية بالغة لما لها من آثار اجتماعية واقتصادية، إلا أن هذه المؤسسات يمكن أن تمر بصعوبات مالية، وغالبا ما كان يطبق عليها نظام الإفلاس في حالة توقفها عن الدفع، لكن صاحب هذا النظام أثار سلبية على الصعيد الاجتماعي والاقتصادي، مما اتجه التفكير إلى خلق آليات حديثة تسمح بالكشف المبكر عن العجز بغرض تجنب تأزم الوضع والإنهاض بالمؤسسة.

الكلمات المفتاحية: المؤسسة المتعثرة؛ نظام الانذار؛ التسوية الودية؛ الصلح الوافي؛ التقويم القضائي؛

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Introduction:

An enterprise refers to an independent economic unit engaged in the production of goods or the provision of services for profit. For such an entity to function effectively, it must be able to meet its financial obligations toward creditors. However, enterprises may face financial difficulties that impede their ability to repay debts. In such circumstances, bankruptcy may be initiated—a legal procedure aimed at dissolving the entity and settling its debts. Bankruptcy is typically regarded as a last resort for financially distressed enterprises, as it entails the cessation of operations and the liquidation of assets.

Accordingly, it becomes imperative to protect distressed enterprises from bankruptcy by implementing preventive and remedial legal measures¹.

The significance of this study lies in its focus on the legal frameworks governing the rescue of financially distressed enterprises. It seeks to propose legislative amendments consistent with contemporary legal trends, including *preventive composition* and *amicable settlement*, as viable alternatives to bankruptcy.

Furthermore, the study aims to analyze modern legal mechanisms that facilitate the rescue of distressed enterprises by examining remedial tools designed to protect them. In doing so, it offers actionable recommendations for lawmakers and policymakers.

In light of the foregoing, the research seeks to answer the following question:
What are the modern legal approaches to rescuing financially distressed enterprises as alternatives to bankruptcy?

To address this central question, the study adopts a descriptive and analytical methodology, structured as follows:

- **Section One:** Early Warning System (*Notification of Financial Distress Indicators*)
- **Section Two:** Amicable Settlement and Preventive Composition
- **Section Three:** Judicial Reorganization and Corporate Restructuring
- **Conclusion:** Summary of Key Findings and Recommendations

Section I: First Approach: The Early Warning System (Notification of Financial Distress Indicators)

The French legislator introduced this mechanism through Law No. 84-148 of March 1, 1984, concerning the prevention and amicable settlement of financially distressed enterprises. This law established a range of preventive measures aimed at detecting early signs of financial difficulty, to either avert them or mitigate their effects.

The Early Warning System is defined as a set of procedures, models, and indicators used to collect and analyze financial data for the purpose of identifying enterprises at risk. This system enables the detection of financial risks, assesses their potential impact on other businesses and the overall financial system, and helps anticipate crises before they materialize².

Early warning mechanisms are generally classified into **internal** and **external alerts**.

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A) Internal Monitoring Mechanisms (Internal Alert)

1. Auditors:

Auditors are legally obligated to formally address, in writing, any concerns that may jeopardize the continuity of a company's operations. In the case of a joint-stock company, such correspondence is directed to the Chairman of the Board of Directors or the Board of Managers, who must respond in writing within 15 days.

If no response is provided, or if the reply is deemed inadequate, the auditor must call upon the board to convene and discuss the issue. Additionally, the auditor must inform the President of the Court about these steps.³.

In Algeria, Article 10 bis of the Commercial Code requires auditors to review the company's accounts and financial situation, submitting their findings to the General Assembly of Shareholders. Auditors must report any violations and alert shareholders to any potential risks affecting the company's viability.

Moreover, Algerian legislation imposes criminal penalties on auditors who deliberately provide false or misleading financial information. Failure to report criminal activities discovered in the course of their duties may result in imprisonment ranging from one to five years, and fines between 20,000 and 500,000 DZD⁴.

2. Partner or Shareholder in a Commercial Company

Algerian law grants general partners and limited partners in a partnership⁵ the right to review all company documentation—including records, financial accounts, contracts, invoices, and meeting minutes—twice per year. They may also submit written inquiries about managerial conduct and engage a certified expert to assist them in exercising these rights.

Similarly, a partner in a Limited Liability Company (LLC) is entitled to examine the company's accounts at its registered office and may also seek the assistance of a certified expert. This allows the partner to supervise the company's financial standing and management practices, and to report any observed irregularities⁶.

As for a shareholder in a joint-stock company, the legislator grants them the right to access all company documents, but this right is restricted to the framework of the general assembly, whether ordinary or extraordinary. Consequently, the shareholder may take internal warning measures and inform other shareholders; however, their role remains passive, as they are structurally limited within the company's governance framework⁷.

Under French law, shareholders holding at least 5% of the company's capital --regardless of the company's legal form (SARL, SCA, or SA)—are granted the right to submit inquiries to management throughout the fiscal year. Management must reply in writing, with a copy of the response provided to the statutory auditor, who may then issue a formal warning if any irregularities are detected.⁸.

3. The Participation Committee (Procedure Committee)

In accordance with Law No. 90-11 concerning labor relations, the Participation Committee is composed of elected employee representatives, provided that the employing institution has at least 20 workers⁹.

Pursuant to Article 94/6, the committee is responsible for reviewing the financial statements of the employing institution, which includes balance sheets, operating accounts, and profit and loss accounts. In this context, the committee has the authority to notify either the company's director, the statutory auditor, or the general assembly of any detected irregularities that could potentially affect the continuity of the institution's operations¹⁰.

As for the French legislator¹¹, it has stipulated that the establishment of a workplace committee requires the institution to employ at least 50 workers. The formation of the work council is only mandatory if the workforce reaches a minimum of fifty employees for a period of twelve months, whether continuous or discontinuous.

If the committee identifies facts likely to adversely affect the company's financial position, it may request clarifications from the employer. This request is automatically included in the agenda of the next meeting. Should the employer fail to provide a satisfactory response, or if concerns remain unresolved, the committee's economic subcommittee prepares a detailed report, which is forwarded to both the employer and the statutory auditor¹².

The committee is also entitled to consult an accountant once per fiscal year. Furthermore, it may invite the statutory auditor and appoint two employees with relevant expertise to participate in discussions as non-voting advisory members.¹³

The committee's report concludes with a formal opinion on whether the matter should be referred to the appropriate management or supervisory authority, or brought to the attention of the shareholders. When the committee chooses to proceed, the accountant's opinion is appended to the referral or notification.¹⁴

B) External Oversight Mechanisms:

1. The Judiciary

According to Article 221 of the Commercial Code, the President of the Court has the authority to take any necessary investigative actions to gather information regarding the company's situation and activities, with the aim of verifying its cessation of payments.

These investigative actions may include summoning the company's manager to appear in person and respond to questions about the company's financial situation, or appointing an expert to review the company's accounts and financial status¹⁵.

However, the role of the Algerian judiciary is confined to verifying the company's cessation of payments before deciding whether to declare its bankruptcy or not. It does not have the authority to implement a restructuring plan to rescue the financially distressed company.

In contrast, the French legislator has granted the President of the Court a key role in preventing companies from entering a state of cessation of payments. The President has the

authority to summon the company's managers and consider the necessary measures to correct the situation.¹⁶.

2. Approved Prevention Aggregates

Approved Prevention Aggregates are a French institution established under Article 611/1 of the Commercial Code¹⁷. Their role is to provide their members with confidential analyses of economic, accounting, and financial information that the members are obligated to submit regularly. When an aggregate identifies signs of financial distress, it notifies the business manager and may recommend the involvement of an expert.

At the request of the state representative, the relevant authorities offer assistance to the Approved Prevention Aggregates. They may also seek the services of the Bank of France, in accordance with the terms specified in the agreement, to provide assessments of the financial status of the member companies. Additionally, these aggregates can benefit from support provided by local authorities and have the right to enter into agreements, particularly with credit institutions, financial companies, and insurance firms, for the benefit of their members.

3. Economic Institutions Monitoring Committee

The Economic Institutions Monitoring Committee is a body established by the Tunisian legislator¹⁸, its role is to collect data on business activities and, upon request, to provide any available information to the President of the Court within whose jurisdiction the debtor's principal office is located. It is also required to inform the competent court president whenever a company incurs losses amounting to one-third (1/3) of its capital. In addition, the Committee must propose a rescue plan for the company and render its opinion on any rescue programs submitted to the court.

Based on the foregoing, the Early Warning System plays a vital role in shielding a distressed enterprise from bankruptcy. Accordingly, this system should encompass close monitoring of financial performance, comprehensive debt tracking, and proactive management. The objective of such oversight is to identify emerging financial issues at an early stage and to take corrective measures aimed at improving financial reporting—thereby enhancing the enterprise's capacity to confront financial challenges and bolstering its overall stability.

Section II: Second Approach – Amicable Settlement and Preventive Composition

According to Article 459 of the Algerian Civil Code, a settlement is defined as a contract in which the parties resolve an existing dispute or prevent a potential one by mutually renouncing their respective rights.

In this context, settlement becomes a procedure through which a financially distressed enterprise and its creditors seek to avoid the adverse consequences of financial difficulties and cessation of payments. This process typically involves negotiating payment schedules, considering the possibility of debt reduction, and exploring potential solutions and proposals aimed at addressing the financial challenges faced by the enterprise.

A) Settlement Procedures

The French legislator has established a conciliation procedure before the Commercial Court for debtors engaged in commercial or artisanal activities who face legal, economic, or financial difficulties, whether actual or anticipated, and who have not ceased payments for more than forty-

five (45) days, This procedure requires the submission of a written request, which must include a financial statement of the enterprise, a list of its outstanding debts, and their respective due dates. The request is to be addressed to the President of the Commercial Court within the jurisdiction where the company's registered office is located, Additionally, the application should propose a program that the enterprise deems appropriate to address its difficulties and request the summoning of creditors to reach an amicable settlement¹⁹.

An enterprise facing difficulties may propose to the President of the Court the appointment of a conciliator or mediator to facilitate negotiations between the enterprise and its creditors, If appointed, the President of the Court sets an initial term of four months, which may be extended for an additional month only, provided that a request for recognition or approval under Article 611-8 is submitted before the expiration of this period, The conciliator's mandate and the procedure may be further extended until a decision is made by the President of the Court, If no such decision is made, the process will automatically end, and no new conciliation may be initiated within the subsequent three months²⁰.

The conciliator, in the course of performing their duties, may obtain any relevant information from the distressed enterprise, The President of the Court shall provide the conciliator with any available information, including, where applicable, the results of any expert reports.

The conciliator must inform the President of the Court regarding the progress of their mission and provide any relevant observations about the efforts of the distressed enterprise. During the procedure, the enterprise may request the judge who initiated the settlement to apply Article 1343-5²¹ of the Civil Code to a creditor who has been served with an official notice or has had a lawsuit filed against them, within the timeframe set by the conciliator, The conciliator may request the suspension of the debt payment. In such cases, the judge may defer or postpone the settlement of the outstanding debts, but only for the duration of the conciliator's mandate. The judge will issue a ruling after considering the conciliator's observations, and the creditor concerned will be notified of the decision in accordance with the conditions established by the decision of the Council of State.

If an agreement cannot be reached, the conciliator must promptly submit a report to the President of the Court, thereby bringing their mission and the conciliation proceedings to an end. The decision shall be communicated to both the debtor and the public prosecutor.

Effects of Amicable Settlement:

The acceptance of an amicable settlement results in the suspension of all legal proceedings and lawsuits that have been initiated or may be initiated against the debtor company, It also entails the suspension of all enforcement actions, regardless of the nature of the enforceable instruments, until the conclusion of the settlement procedure, Moreover, all individual lawsuits, enforcement measures, and claims arising prior to the approval of the amicable settlement shall be stayed until the expiration of the settlement period. However, legal actions initiated by the debtor company, despite having ceased payments, with the purpose of recovering its receivables, shall remain ongoing²².

If the company fails to fulfill the obligations stipulated in the amicable settlement, the President of the Court shall order the annulment of the agreement, Likewise, if a judgment declaring the cessation of payments is issued during the course of the settlement process, the amicable settlement shall be deemed null and void, In both scenarios, all debts that had been deferred under the terms of the settlement shall become immediately due and enforceable²³.

Based on the foregoing, it can be concluded that the amicable settlement represents a pivotal mechanism for rescuing financially distressed enterprises from bankruptcy, This process hinges on achieving consensus between the concerned parties through effective negotiation and the development of a settlement that seeks to balance and preserve the respective interests of all stakeholders, Such an approach enhances the prospects of the enterprise's continuity, prevents its deterioration into insolvency, and contributes to the preservation of the broader public interest associated with the sustainability of the enterprise.

B) Preventive Settlement:

Preventive settlement is defined as a proposal initiated by the indebted company and addressed to its creditors, offering either a partial remission of the debt, an extension of the repayment period, or a combination of both²⁴.

In order for a distressed company to benefit from preventive conciliation, certain conditions must be fulfilled, as outlined below²⁵.

▲ **Commercial Nature:**

The company must be of a commercial character, Preventive conciliation does not apply to partnerships, invalid or dissolved companies, or entities that have been removed from the commercial register.

▲ **State of Distress:**

The company's operations must be undergoing serious, continuous, and overall disruption, compelling it to suspend its activities²⁶.

▲ **Good Faith and Misfortune:**

The company must prove that its financial distress was the result of external circumstances beyond its control, and not due to fault, negligence, or omission. This must be demonstrated through a detailed report evaluating the management's conduct, The court enjoys broad discretion in assessing this condition, including recourse to expert evaluations, if necessary²⁷.

As for the conditions of the settlement, at least 50% of the total debt value must be offered for settlement, furthermore, the repayment period must not exceed two years from the date the court approves the settlement, additionally, the company's manager must obtain the approval of the majority of the partners²⁸.

Effects of the Settlement:

- ▲ **Restoration of managerial freedom:** The appointed judge and the agent are relieved from management and supervision duties.
- ▲ **Applicability of the settlement to all ordinary creditors:** All creditors are bound by the settlement and must accept its terms²⁹.
- ▲ **Compliance with the settlement conditions:** The agreed-upon amounts must be paid within the specified period. If this is not done, the settlement may be annulled, and the company will be declared bankrupt³⁰.

Based on the above, it can be concluded that preventive reconciliation is a measure aimed at protecting a financially distressed company, as it focuses on resolving financial disputes before they escalate, The objective is to achieve an early settlement between the parties, which helps maintain

the company's stability and sustainability, while preventing it from descending into bankruptcy. Thus, it preserves the company's strength and financial continuity.

Section III: The Third Approach: Judicial Review

The French legislator regulated this mechanism under Law 85-98, enacted on January 25, 1985³¹. This approach aims to safeguard the company and prevent its financial failure through two distinct stages:

- **The First phase: Observation or Diagnosis Period**

Referring to Article 8 of the repealed Law 85-98, it is evident that the legislator initiated the judicial recovery process with the observation phase. This phase aims to prepare an economic and social report on the company, along with recommendations to either continue the company's operations, transfer it to another entity, or proceed with judicial liquidation if the court finds no viable solution for the company.

Law 85-98 establishes diagnostic experts, who are appointed by the competent judge. These experts specialize in preparing reports on the economic and social status of the company.

As for the monitoring period, it lasts for a maximum of six months, which may be extended once based on a reasoned decision, upon the request of the trustee, debtor, or public prosecutor³².

Regarding the creditors' position during this phase, they are only required to assert their rights to the creditors' representative within specific deadlines, or their rights will expire, in accordance with Article 53 of Law 85-98 (repealed)³³.

In Algeria, the National Unemployment Insurance Fund initially entrusted the task of diagnosing companies facing difficulties to a group of experts, referred to as 'joint consultants,' to oversee and perform the diagnostic process, as well as determine the conditions for providing assistance. However, this arrangement was later revised, and the Fund subsequently entered into contracts with its own personnel to conduct the diagnostics. The diagnostics carried out by the experts include the following elements³⁴:

- **General diagnosis**
- **Diagnosis of the management team:** This can be assessed by evaluating the management style, information, communication, and culture.
- **Social diagnosis.**
- **Financial diagnosis:** A systematic and methodical study of the institution's accounting and financial information to understand its financial situation.
- **Technological diagnosis**³⁵.

The Fund relied on quantifying these elements, assigning a maximum score of 5 points to each. Any institution that exceeds 30 points is considered eligible for assistance.

After diagnosing the institution and assessing it as being in a state of distress, a recovery plan is prepared. This plan outlines the institution's strengths that should be reinforced and its weaknesses that should be addressed. The plan includes two levels:

- **Immediate and short-term actions**, followed by measures to be taken at the medium and long-term levels.
- **Adopting a strategy** concerning the institution's activities by identifying those that need to be developed and those that will be discontinued³⁶.

It is worth noting that the recovery plan is divided into four essential stages:

- **Diagnosis:**

This stage involves analyzing the institution's financial situation using a set of financial tools and indicators to identify its financial strengths and weaknesses.

- **Urgent Measures:**

These measures aim to halt or reduce the institution's decline by laying off employees for economic reasons and negotiating debt repayment deadlines.

- **Strategic Repositioning:**

This stage focuses on redirecting the institution's activities toward more profitable sectors that align with its current strengths.

- **Changing the Institution's Culture:**

This is achieved by bringing in new, qualified managers with expertise and fresh ideas, which helps transform the institution's culture³⁷.

- **The second phase: Treatment**

This phase comprises two possible procedures: either the rehabilitation of the company pursuant to a court-approved recovery plan that authorizes the continuation of the company's operations or its transfer; or, if neither of these solutions proves effective, judicial liquidation will be pursued.

The court may decide to allow the continuation of the company's activities based on the report submitted by the judicial administrator, provided that such continuation is feasible and enables the preservation of all or part of the employment positions. Furthermore, the court may approve the transfer of the company to a third party if its recovery is deemed unattainable³⁸.

In the event that the proposed remedy involves the continuation of business operations, creditors are invited to either waive a portion of their claims or to grant the debtor payment extensions or installment arrangements. However, if the remedy consists in the sale of the company, creditors holding secured claims shall have priority over the proceeds of the sale. Any remaining unpaid claims shall be deemed extinguished upon the completion of the sale or liquidation due to insufficiency of assets. This has led to the observation that the rescue of distressed enterprises often occurs at the expense of creditors, who are regarded as the primary victims of legislative reforms in this area³⁹.

Based on the above, it can be concluded that judicial assessment, as a mechanism for supporting financially distressed companies⁴⁰, involves an initial phase of thorough diagnosis. The

primary objective is to steer legal proceedings in a manner that maximizes the company's prospects for recovery by proposing solutions tailored to its financial condition through the implementation of an appropriate assessment plan. Consequently, this mechanism contributes to avoiding bankruptcy and securing the continuity of the company's operations.

Conclusion:

In conclusion, it can be affirmed that the modern approach to rescuing financially distressed enterprises is based on a set of integrated measures aimed at preserving their continuity and preventing their collapse, which would otherwise have adverse repercussions on the national economy as a whole. These approaches seek to achieve the following objectives:

- **Preventing the collapse of distressed enterprises:** This contributes to maintaining the continuity of business operations and mitigating the broader economic consequences.
- **Protecting creditors' rights:** By ensuring that creditors receive their dues in a fair and timely manner.
- **Preserving employment opportunities:** Through the continued operation of distressed enterprises, which helps safeguard jobs and maintain social stability.

The following conclusions were drawn:

- The warning system or early difficulty notification represents one of the most significant preventive mechanisms designed to ensure the early detection of difficulties encountered by companies and to enable timely corrective measures. Legislation has expanded the scope of oversight by granting several entities and stakeholders the authority to detect such issues and notify the relevant authorities to act promptly and prevent payment suspension.
- Amicable settlement and preventive reconciliation constitute two of the most critical mechanisms aimed at ensuring the continuity of a company's operations. These tools are designed to rescue distressed companies from bankruptcy by facilitating an agreement between the company and its creditors, under judicial supervision.
- Despite the recognition and regulation of these mechanisms in comparative legal systems, Algerian legislation lacks a clear and comprehensive strategy for rescuing distressed companies. Instead, it limits its intervention to remedial measures implemented after the cessation of payments, such as preventive reconciliation.

Based on the above, we propose the following recommendations:

- The Algerian legislator should adopt a modern legal approach to rescuing financially distressed companies from bankruptcy by enacting comprehensive legislation that regulates both preventive and remedial mechanisms.
- It is necessary to establish clear legal provisions governing the stage during which a company begins to experience financial difficulties, along with precise criteria for identifying a company as being in a state of financial distress.
- The role of the judiciary should be strengthened in terms of proposing solutions and formulating recovery plans for distressed companies—similar to the French legislative model—instead of limiting the court's role to merely verifying cessation of payments as a prerequisite to declaring bankruptcy.

1 Khalifa Al-Fadhala Asil Hamed, "Preventive Settlement from Bankruptcy: A Comparative Study Between Kuwaiti and Egyptian Legislation," Dar Al-Nahda Al-Arabiya, 2006, pp. 26-27.

2 Belkala Brahim, "Fa'aliyat Nuzum Al-Inzar Al-Mubakkir Fi Al-Wiqaya Min Al-Azmat Al-Maliya", Journal of Research in Financial and Accounting Sciences, University of M'sila, Issue 04, 2017, p. 33.

3 Article L234-1 of the French Commercial Code: "When the statutory auditor of a public limited company (société anonyme) identifies, during the performance of their duties, facts that may compromise the continuity of operations, they inform the chairman of the board of directors or the executive board under conditions set by a decree in the Council of State. If no response is received within fifteen days or if the response does not ensure the continuity of operations, the statutory auditor invites, by written notice sent to the chairman of the board of directors or the executive board, the board of directors or the supervisory board to deliberate on the identified facts. The statutory auditor is invited to this meeting. A copy of this notice is sent to the president of the commercial court. The deliberations of the board of directors or the supervisory board are communicated to the president of the commercial court and to the works council or, failing that, to the staff representatives. The statutory auditor may request to be heard by the president of the court, in which case the second paragraph of I of Article L. 611-2 applies." Available at: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000033462246 .03/03/2025. 8:38.

4 Article 830 of the Algerian Commercial Code stipulates that any statutory auditor who, during the performance of their duties, becomes aware of criminal offenses and fails to report them to the Public Prosecutor shall be subject to imprisonment ranging from one month to one year, or a fine between 20,000 and 200,000 Algerian Dinars, or both penalties.

5 Article 558 of the Algerian Commercial Code: "Partners who are not managers have the right to personally inspect the company's records, accounts, contracts, invoices, correspondence, minutes, and, in general, any document that has been made or received by the company. This right to inspect is followed by the right to obtain copies of these documents, twice a year".

⁶ Article 585 of the Algerian Commercial: Each partner has the right to:

1. Obtain, at any time, from the company's registered office, a certified copy of the company's articles of association upon request, The company must attach to this document a list of the directors, and, where applicable, a list of the auditors currently performing their duties, The company may not charge a fee higher than the amount specified by the applicable regulations for this delivery.
2. Inspect, at any time, at the company's registered office and personally, the following documents: the general operating account, the income statement, the balance sheets, the inventory, the reports presented to the general meetings, and the minutes of these meetings for the last three years, For this purpose, the partner may consult an authorized expert.
3. Inspect or obtain a copy, within the fifteen days prior to the convening of any general meeting, of the draft resolutions to be presented and the management report, as well as, where applicable, the auditor's report.

⁷ Article 678 of the Algerian Commercial Code.

⁸ Tareesh Abdelghani, "Mechanisms for Rescuing Distressed Commercial Companies from Payment Default in Algerian Law," The Journal of the Academy for Social and Human Studies, University of Chlef, Issue 15, January 2016, p. 163.

⁹ Article 76 of Law No. 90-11, dated 26th of Ramadan, 1410 AH, corresponding to April 21, 1990, concerning Labor Relations, as amended and supplemented.

¹⁰ Beloula, Tayeb, "Corporate Law, Series of Law in the Field," Berti Publications, Algeria, 2008, p. 265.

¹¹ Article L1233-29 of the French Labour Code, which mandates that, in companies or institutions employing fewer than fifty employees, the employer must hold a meeting with the staff committee and consider their opinions. Available at: <https://www.legifrance.gouv.fr> /03/03/2025.11:00.

¹² According to Article L2312-63 of the French Labour Code, the Social and Economic Committee, or, where applicable, the Economic Commission, may seek the assistance of a chartered accountant once per financial year, The committee may also summon the auditor and appoint, with consultative voice, two employees from the company chosen for their expertise, provided they are not part of the committee, Each of these employees is allotted five hours to assist the committee or economic commission in preparing the report as stipulated in Article L2312-63, with such time being remunerated as working hours. Available at: <https://www.legifrance.gouv.fr> /03/03/2025.11:15.

¹³ Article L2312-64 of the French Labour Code, which stipulates that the Social and Economic Committee, or, where applicable, the Economic Commission, may, once per fiscal year, seek the assistance of an accountant as provided in Article L.2315-92, summon the auditor, and consult two employees of the company chosen for their competence, and not part of the Social and Economic Committee, with advisory voting rights, These employees are allotted five hours each to assist the committee or economic commission in preparing the report required by Article L2312-63. This time is compensated as working time. Available at: <https://www.legifrance.gouv.fr> /03/03/2025.11:30.

¹⁴ Article L2312-65 of the French Labour Code. Available at: <https://www.legifrance.gouv.fr> /03/03/2025.11:35.

¹⁵ Refer to Article 221 of the Algerian Commercial Code.

¹⁶ Consult Article L611-2 of the French Commercial Code . Available at: <https://www.legifrance.gouv.fr> /03/03/2025. 12:00.

¹⁷ Consult Article L611-1 of the French Commercial Code . Available at: <https://www.legifrance.gouv.fr> /03/03/2025. 12:30.

¹⁸ Refer to Government Order No. 1356 of 2017 concerning the composition and functioning of the Committee for Monitoring Economic Enterprises and defining its supervisory authority, Official Journal, issued on December 13, 2017.

¹⁹ Lynda Saâdawi, Naânaâ Bouhafs Jalab, "Friendly Settlement as a Mechanism for Protecting Distressed Companies," Journal of Law and Political Science, University of Tizi Ouzou, Vol. 17, Issue 01, 2022, p. 195.

As stipulated in Article L611-6 of the French Commercial Code, the president of the court is presented with a petition from the debtor outlining their economic, financial, social, and property situation, as well as their financing needs and, if necessary, the means to address these challenges

²⁰ According to Article L611-6 of the French Commercial Code, the conciliation procedure is initiated by the president of the court, who appoints a conciliator for a period not exceeding four months. However, upon the conciliator's request, the president may extend this period through a reasoned decision, provided that the total duration of the conciliation procedure does not exceed five months. If a request for certification or homologation has been filed in accordance with Article

L611-8 before the expiration of this period, the conciliator's mandate and the procedure are extended until a decision is rendered, either by the president of the court or the court itself, as appropriate. If no such request is made, the conciliation automatically ends, and no new conciliation may be initiated within three months following the termination.

²¹Article 1343-5 of the French Civil Code, which provides the judge with the authority to delay or stagger payments due, considering the debtor's situation and the creditor's needs, and outlines the conditions under which the amounts due may bear reduced interest or be applied first to the principal. Available at: <https://www.legifrance.gouv.fr/codes/id/LEGITEXT000006070721/.06/03/2025.10:00>.

²²Taraich Abdelghani, "Mechanisms for Saving Distressed Commercial Companies from Insolvency in Algerian Law," Op. cit., p. 166.

²³Mekawi Zoubir, Bouroues Al-Iraj, "The Legal Mechanism for Managing Economic Enterprises in the Case of Financial Difficulties," Journal of the Professor Researcher in Legal and Political Studies, University of M'sila, Vol. 1, Issue 10, 2018, p. 301.

²⁴Baroudi, Ali, and Mohamed F. Al-Arini, Commercial Paper and Bankruptcy According to the New Commercial Law No. 17 of 1999, Dar Al-Jamiaa Al-Jadida, 2004, Egypt, p. 171.

²⁵Ahmed Daoud, Rukia, The Role of Reconciliation in Avoiding Bankruptcy for Distressed Companies: A Comparative Study, Academic Journal of Legal and Political Research, Issue 1, University of Laghouat, 2017, p. 27 and following.

²⁶Al-Akhras, Nashat, Preventive Settlement from Bankruptcy: A Comparative Study, Dar Al-Thaqafa for Publishing and Distribution, Jordan, 2004, p. 54.

²⁷Dhiab, Ziad Sobhi, Bankruptcy of Companies in Islamic Jurisprudence and Law: A Comparative Study, Dar Al-Nafae for Publishing and Distribution, Jordan, 2011, p. 84.

²⁸Taraich Abdelghani, Mechanisms for Rescuing Troubled Commercial Companies from *Insolvency* in Algerian Law, Op. cit., p. 167.

²⁹Ahmad Dawood, Ruqiya, The Role of Conciliation in Preventing Insolvent Companies from Declaring Bankruptcy: A Comparative Study, Op. cit., p. 31.

³⁰Hilmey Abbas, Insolvency and Judicial Settlement, *Dūwān al-Maṭbū'āt al-Jāmi'īya*, Algeria, 2000, p. 58.

³¹Loi n° 85-98 du 25 janvier 1985 relative au redressement et à la liquidation judiciaires des entreprises .Modifié par Loi n°94-475 du 10 juin 1994 .Abrogé par Ordonnance 2000-912 . 2000-09-18.. 07/03/2025. 15:30.

³²Consult Article L621-3 of the French Commercial Code, concerning the opening of the observation period in judicial reorganization proceedings. Available at: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000043387860 .07/03/2025 15:45.

³³Article 53 (repealed): In the absence of a declaration within the time limits set by decree of the Council of State, creditors are not admitted to the distributions and dividends, unless the supervising judge grants them relief from foreclosure upon proof that their failure was not due to their own fault. In such case, they may only participate in the distribution of payments made after their request.

³⁴Rouina Abdel-Sami, "Assistance for Enterprises Facing Difficulties," Journal of Social and Human Sciences, University of Batna, Issue 11, 2004, p. 82 and following.

³⁵Elile Cohen, Analyse financière, 2eme édition ,Economica, paris, p :251.

³⁶Rouina Abdel-Sami, "Assistance for Enterprises Facing Difficulties," op. cit., p. 90.

³⁷ Abdelhak Lamiri , Management de l'information, redressement et mise à niveau des entreprises. Office des publications universitaires, Alger 2003, p 126.

³⁸ Youssef Fatiha, "The Modern Legislative Trend Towards Saving Financially Distressed Companies," Op. cit., p. 45.

³⁹ Youssef Fatiha, Op. cit., p. 45

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