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Ordinary Appeal Against Bankruptcy Declaration Judgments Under Algerian Legislation

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CHERIT Nassime [*]
University of Tipaza
Cherit.nassime@cu-tipaza.dz

Abstract:

This research paper aims to establish a precise legal conceptualization of the ordinary means of appeal available against bankruptcy declaration judgments under Algerian legislation, namely opposition and appeal. It further seeks to examine and determine the legal consequences arising from the termination of the state of cessation of payments during the pendency of an ordinary appeal against a bankruptcy declaration judgment, regardless of whether such an appeal is brought by way of opposition or by way of appeal.

The study adopts a legal-analytical approach to clarify the procedural and substantive rules governing these ordinary appeal mechanisms, while assessing their effectiveness in achieving a balance between the rights of the bankrupt merchant and the interests of creditors.

Keywords: *Bankruptcy declaration judgment; Ordinary appeal; Opposition; Appeal; Upholding of the bankruptcy declaration; Annulment of the bankruptcy declaration.*

Introduction:

It is well-established and widely acknowledged that commercial transactions possess a distinctive legal nature founded primarily upon two fundamental principles. The first is speed, which constitutes the essence of commercial dealings, while the second is credit, which represents their underlying spirit. These principles do not merely characterize commercial activity; rather, they form the primary rationale for the independence of commercial law from civil law and constitute a decisive criterion for distinguishing commercial transactions from civil ones.

In order to safeguard the credit principle and ensure stability in commercial dealings, the bankruptcy system was established as a legal mechanism characterized by rigor and strictness. Such severity reflects

[*]- ***Corresponding Author***.

its function as a legal sanction imposed upon merchants who fail to fulfill their financial obligations and cease the payment of their debts.

The Algerian legislator, in line with several comparative legal systems, adopted the bankruptcy regime from an early stage, beginning with the promulgation of the first Algerian Commercial Code in 1975. This regime was subsequently framed by a set of legal texts regulating its substantive conditions, procedural requirements, and the legal effects arising from a judgment declaring a merchant bankrupt due to a cessation of payments.

A bankruptcy declaration judgment occupies a unique legal position, as a special legal framework that distinguishes it from ordinary judicial decisions governs it. This specificity is particularly evident with regard to the mechanisms available for challenging such a judgment through ordinary means of appeal. Unlike other judicial rulings, a bankruptcy declaration judgment is subject to procedural rules that take into account the collective nature of bankruptcy proceedings and the multiplicity of interests involved.

This distinctive legal status constitutes the primary motivation for addressing the present topic and selecting it as the subject of this research paper, entitled "Ordinary Appeal Against Bankruptcy Declaration Judgments under Algerian Legislation".

The importance of this study lies in its capacity to provide a comprehensive legal analysis of the ordinary appeal mechanisms guaranteed under the Code of Civil and Administrative Procedures in general, and under Algerian Commercial Law in particular. It seeks to assess the extent to which these mechanisms are compatible with the special legal nature of a bankruptcy declaration judgment, while also evaluating their conformity with the fundamental principles governing litigation procedures in general and bankruptcy proceedings in particular.

From an economic perspective, the significance of this topic is reflected in its contribution to reducing apprehension among merchants, whether natural or legal persons, as well as among creditors and other stakeholders subject to the bankruptcy regime. Such legal clarity enhances confidence in the commercial environment, contributes to the revival of commercial activity, and supports the stability of the national economy as a whole.

From a legal standpoint, this research aims to provide a precise clarification of the ordinary means of challenging bankruptcy declaration judgments, whether through opposition or appeal. It further examines the legal effects resulting from the termination of the state of cessation of payments during the course of appeal proceedings. In addition, the study identifies and analyzes the procedural rules and statutory time limits governing the filing of an opposition and an appeal against bankruptcy declaration judgments under Algerian legislation.

Ultimately, this research seeks to determine whether the legal framework regulating these ordinary appeal mechanisms ensures effective protection of the bankrupt merchant's rights on one hand, while safeguarding the rights of creditors and other interested parties on the other. By doing so, it aims to achieve a procedural balance consistent with the requirements of justice and equity, while preventing potential abuse that may arise from the issuance of a bankruptcy declaration judgment.

Additionally, this paper seeks to determine and elucidate the legal effects resulting from the termination of the state of insolvency during the judicial review of a bankruptcy declaration judgment, whether such review takes place within opposition proceedings or appeal proceedings.

Based on the foregoing, it may be stated that ordinary appeals against bankruptcy declaration judgments under Algerian legislation have recently become one of the most contentious legal issues. This is particularly evident in light of the emerging trend toward specialized commercial courts and the growing need for Algerian legislation to reorganize the procedures governing ordinary appeals against bankruptcy declaration judgments in a manner that ensures the achievement of their intended objectives. Indeed, a detailed and analytical study of this subject can contribute to enhancing legal awareness and fostering a sense of responsibility among merchants, managers of commercial companies, and even among judges and lawyers themselves. Furthermore, like other legal systems, Algerian law is not free from certain shortcomings and legislative gaps in the provisions regulating these two ordinary appeal methods, which this research paper seeks to identify and address.

This paper revolves around a central legal issue, namely the possibility or impossibility of lodging an ordinary appeal whether by

opposition or by appeal against a bankruptcy declaration judgment. More specifically, it raises the following questions: ***Can a bankruptcy declaration judgment be challenged through opposition or appeal? What are the legal effects if the state of insolvency ceases during the pendency of either of these two appeal proceedings?***

In order to comprehensively examine this subject, explore its various dimensions, clarify all its aspects, and provide in-depth answers to the aforementioned questions while achieving the research objectives and presenting relevant legal arguments, we have structured this paper into two main sections. The first section addresses the ordinary appeal procedures available against a bankruptcy declaration judgment, while the second section is devoted to the legal effects resulting from the termination of the state of insolvency during the proceedings of an ordinary appeal against such a judgment, whether by opposition or by appeal. The paper concludes with a summary of the main findings and a set of recommendations, which we believe will contribute to clarifying and properly delineating the procedures governing ordinary appeals against bankruptcy declaration judgments in accordance with legal requirements.

Section One: Ordinary Appeal Methods:

Examining ordinary appeals against bankruptcy declaration judgments requires addressing two fundamental methods of appeal. The first method is opposition, which will be analyzed in detail in the first subsection. The second method is appeal, which will be examined in the second subsection.

Subsection One: Opposition:

At the outset, it should be noted that jurisdiction over bankruptcy and judicial settlement cases is vested in specialized commercial courts. Judgments rendered by these courts are subject to opposition and appeal before territorially competent judicial councils(1).

On the other hand, judgments issued in matters relating to bankruptcy or judicial settlement, as well as orders connected thereto, are provisionally enforceable, with the exception of judgments approving settlements. Article 227 of the Algerian Commercial Code expressly affirms this principle. In adopting this approach, the Algerian legislator has followed the path taken by its French and Egyptian counterparts(2).

The rationale underlying the Algerian legislator's adoption of this rule lies primarily in the need to preserve the bankrupt debtor's assets and prevent their dissipation. This is because a bankrupt debtor may, in some cases, resort to fraudulent practices, such as concluding fictitious transactions, issuing accommodation bills, or engaging in other acts that diminish their assets, which constitute the general guarantee for the body of creditors.

By referring to the general rules governing appeal methods against judicial judgments and decisions as provided for in the Algerian Code of Civil and Administrative Procedures, it becomes apparent that appeal methods are divided into two categories: ordinary appeals, represented by opposition and appeal, and extraordinary appeals(3), represented by third-party opposition, petition for review, and appeal in cassation. This distinction, however, is not expressly reflected in the provisions of the Algerian Commercial Code, which limits itself to regulating ordinary appeal methods against bankruptcy declaration judgments namely opposition and appeal without addressing extraordinary appeal methods, despite devoting Chapter Three to "Appeal Methods". In our view(4), the title of this chapter is inconsistent with its content. Accordingly, we suggest that the Algerian legislator either reformulate the title of Chapter Three to read "Ordinary Appeal Methods" or incorporate provisions regulating extraordinary appeal methods within this chapter.

Furthermore, opposition constitutes one of the ordinary means of appeal against judgments and decisions rendered in absentia. It enables the absent party to challenge an in absentia judgment or decision and to have the case reconsidered, both factually and legally, by the same judicial body that issued the initial judgment or decision(5).

As a rule, the Algerian legislator has established a time limit of one month for filing an opposition under the Code of Civil and Administrative Procedures. This period begins to run from the date of formal notification of an in absentia judgment or decision, as expressly provided for in Article 329 of the aforementioned Code.

However, upon examining Article 231 of the Algerian Commercial Code, it becomes evident that the legislator has set a significantly shorter time limit for filing an opposition against judgments issued in matters of judicial settlement or bankruptcy declaration, namely ten (10) days, calculated from the judgment date. With regard to judgments

that require special procedural formalities, such as publication and announcement in accredited newspapers for legal notices or in the Official Bulletin of Legal Announcements (BOAL), the time limit does not commence until the completion of the last required publication or announcement procedure[6].

A comparison between the opposition time limit stipulated in the Code of Civil and Administrative Procedures and that provided for in the Commercial Code reveals that the Algerian legislator has reduced the period from one month to ten days. This legislative choice is commendable, given the specific nature of commercial transactions, which are characterized by speed and procedural flexibility.

Nevertheless, the Algerian legislator may be criticized for failing to precisely determine the starting point for calculating the opposition time limit set forth in Article 231 of the Commercial Code. The expression "ten days as of the judgment date" lacks sufficient clarity and gives rise to divergent interpretations. It remains unclear whether the legislator intended the time limit to run from the judgment pronouncement date or from its notification date. In this regard, it would have been preferable for the legislator to adopt the same approach followed in Article 329 of the Code of Civil and Administrative Procedures, which explicitly provides that the opposition time limit begins from the date of formal notification of the in absentia judgment or decision.

Moreover, a bankruptcy declaration judgment is among those judgments that are subject to mandatory publication and announcement procedures. Accordingly, it may be argued that the opposition time limit under the Commercial Code should be calculated as ten days commencing from the completion date of the final publication or announcement procedure.

With regard to judgments excluded from being subject to appeal by way of opposition, it is undisputed, by reference to the general rules set forth in the Code of Civil and Administrative Procedures, that such exclusion includes all judgments rendered in a party's presence, as well as judgments deemed to have been rendered in the presence of the parties, in accordance with the provisions of Article 293 of the Code of Civil and Administrative Procedures.

This exclusion also extends to provisional orders issued by courts pursuant to Article 303 of the same Code, in addition to in absentia

orders issued by judicial councils, as provided for in the second paragraph of Article 304 of the Code of Civil and Administrative Procedures. These provisions collectively reflect the general framework established by the Code of Civil and Administrative Procedures.

However, a careful examination of Article 232 of the Algerian Commercial Code reveals that the legislator has excluded additional categories of judgments from being subject to opposition, beyond those provided for in the Code of Civil and Administrative Procedures. These include judgments rendered pursuant to Article 287 of the Commercial Code, as well as judgments issued by courts when ruling on appeals against orders made by the delegated judge within the scope of his legally defined powers. Furthermore, judgments relating to the authorization to operate a commercial establishment are likewise excluded from opposition[(7)].

In the same context, it is of particular importance to draw attention to a critical issue arising from the wording of Article 536 bis 05, introduced by Law No. 22-13 amending and supplementing the Code of Civil and Administrative Procedures. This provision states that: "The case shall be adjudicated by the specialized commercial court by a judgment appealable before the judicial council..." An analysis of this formulation indicates that judgments rendered by specialized commercial courts are subject only to appeal.

In our view, this legislative formulation is problematic. By limiting challenges against judgments of specialized commercial courts exclusively to appeal, it effectively excludes the possibility of lodging an opposition. Consequently, it deprives an absent party of the right to seek reconsideration of an in absentia judgment rendered against them. Such an approach constitutes an infringement of the principle of two-tier litigation, which is expressly enshrined in Article 06 of the Code of Civil and Administrative Procedures.

In conclusion, an opposition against an in-absentia judgment declaring bankruptcy must be filed in accordance with legally prescribed formal requirements. This entails submitting a statement of claim in a number of copies equal to the number of parties to the dispute, accompanied by a copy of the judgment being challenged, failing which the opposition shall be declared formally inadmissible.

This requirement is expressly affirmed by the final paragraph of Article 330 of the Code of Civil and Administrative Procedures(8).

It should also be emphasized that the right to file an opposition is not limited to the bankrupt debtor alone. Rather, it extends to any interested party, even if such party was not involved in the original proceedings. This is due to the fact that a bankruptcy declaration judgment produces effects erga omnes and carries binding force with respect to third parties(9).

Where a judgment declaring bankruptcy is not subject to opposition, it is unquestionably open to appeal before the territorially competent judicial council. This matter will be examined in detail in the following subsection.

Subsection Two: Appeal:

An appeal constitutes the second ordinary means of redress and represents a concrete and practical embodiment of the principle of two-tier litigation. It enables the appellant to present new evidence and legal arguments that were not previously submitted, as the appeal procedure allows for a re-examination of the case on both factual and legal grounds before the territorially competent judicial council. Through this mechanism, the appellate court may rectify errors committed by courts of first instance, particularly by judges of specialized commercial courts, which is of particular relevance in the context of appeals against bankruptcy declaration judgments.

The primary purpose of an appeal is to seek the review, amendment, or annulment of a judgment rendered by a court of first instance. An appeal may be filed either as a principal appeal following the formal notification of the judgment or as a subsidiary appeal lodged by the respondent at a later stage in response to the original appeal(10).

Under the Code of Civil and Administrative Procedures, the Algerian legislator has set the time limit for filing an appeal at one month, starting from the date of personal formal notification of the judgment. This period is extended to two months where the judgment is notified at the party's real or chosen domicile. However, in the case of judgments rendered in absentia, the appeal period does not commence until the expiry of the opposition time limit, as expressly provided for in Article 336 of the Code of Civil and Administrative Procedures.

By contrast, Article 234 of the Algerian Commercial Code establishes a shorter appeal period for judgments issued in matters of

judicial settlement or bankruptcy declaration, setting it at ten (10) days commencing from the judgment notification date. The territorially competent judicial council is required to adjudicate the appeal within a maximum period of three months, by a decision that is enforceable by virtue of its draft(11).

A noteworthy aspect of this provision is that, unlike the regime established under the Code of Civil and Administrative Procedures, the Algerian legislator does not distinguish between personal notification and notification at the real or chosen domicile with regard to the appeal time limit. Article 234 of the Commercial Code establishes a single, uniform appeal period of ten days in both cases, calculated from the date of formal notification of the judgment, regardless of the manner in which such notification is effected.

An appeal against a bankruptcy declaration judgment must be lodged by submitting a statement of claim to the registry of the territorially competent judicial council. This statement must bear the lawyer's stamp and signature and must include the particulars stipulated in Article 540 of the Code of Civil and Administrative Procedures, failing which the appeal shall be declared formally inadmissible. In addition, a certified copy of the appealed judgment must be attached, as expressly required by Article 541 of the same Code.

An appeal has a devolutive effect, transferring the dispute both in terms of its subject matter and the parties involved to the competent judicial council. The appellate court re-examines the case anew, which may result in the annulment, confirmation, or modification of the appealed judgment.

In this context, it should be noted that some legal scholars maintain that an interested party may not lodge an appeal unless they have first challenged the judgment by way of opposition within the legally prescribed time limit. This position is justified by reference to the general rules governing judicial organization, which are founded on the principle of two-tier litigation(12).

Based on the foregoing, it may be argued that the right to appeal a bankruptcy declaration judgment is confined to the parties to the original proceedings. This differs from opposition, which may be lodged by any interested party, even if such party was not originally involved in the bankruptcy proceedings.

With respect to appeals against judgments rejecting a bankruptcy petition, the absent party may only file an opposition. Third parties or other interested persons may not resort to opposition in this case, except through a third-party opposition, which constitutes an extraordinary means of appeal under the Code of Civil and Administrative Procedures. Conversely, one of the original parties to the lawsuit may file an appeal against a judgment rejecting a bankruptcy petition(13).

Nevertheless, it may occur that, prior to the expiry of the legal time limits for filing either an opposition or an appeal, the state of cessation of payments ceases to exist. In other words, the bankrupt merchant may succeed during this period in settling their outstanding debts, thereby giving rise to a new legal situation. The legal effects of such a development will be examined in detail in the following section.

Section Two: Legal Effects of the Cessation of Payments during the Pendency of an Ordinary Appeal:

Unlike certain comparative legislations, the Algerian legislator has not expressly regulated the legal effects arising from the termination of the state of cessation of payments while an ordinary appeal against a bankruptcy declaration judgment whether by opposition or by appeal is pending(14). In light of this legislative silence, legal doctrine has diverged on the issue.

Some scholars argue that the judicial body reviewing the appeal must uphold and confirm the bankruptcy declaration judgment, a position that will be analyzed in detail in the first subsection. Others contend that the appellate court is required to annul the bankruptcy declaration judgment as a result of the termination of the state of cessation of payments. This latter view will be examined in the second subsection.

Subsection One: Upholding the Bankruptcy Declaration Judgment:

At the outset, it should be noted that a bankrupt debtor may, in certain circumstances, succeed in settling all outstanding debts, whether through assistance from relatives or friends, support from other merchants with whom they deal, or as a result of other factors such as receiving a gift, a bequest, or an inheritance. Regardless of the source of payment, the decisive factor is the settlement of debts and,

consequently, the termination of the state of cessation of payments, which constitutes an essential condition for declaring bankruptcy.

In this regard, a segment of legal doctrine maintains that the termination of the state of cessation of payments during the pendency of an ordinary appeal against a bankruptcy declaration judgment whether by opposition or by appeal does not justify rejecting or annulling the bankruptcy declaration. According to this view, the appealed judgment was lawfully rendered on the basis that the state of cessation of payments existed at the time the judgment was issued. Consequently, the judicial body reviewing the appeal must uphold the bankruptcy declaration judgment, along with all its legal effects, including the civil consequences imposed on the bankrupt merchant. The restoration of such rights is subject solely to the fulfillment of statutory conditions governing rehabilitation(15).

Moreover, proponents of this position further argue that the settlement of debts during appeal proceedings may cover the claims of present creditors but not those of absent creditors who have not yet declared their claims. Such a situation, they argue, would undermine the principle of equality among creditors(16).

Notwithstanding these justifications, this viewpoint has not garnered consensus among the majority of legal scholars. An opposing doctrinal approach has therefore emerged, asserting that the judicial body reviewing the appeal is obliged to annul the bankruptcy declaration judgment once the state of cessation of payments has terminated. This position will be analyzed in detail in the following subsection.

Subsection Two: Annulment of the Bankruptcy Declaration Judgment:

Proponents of this doctrinal approach argue that the judicial body reviewing an ordinary appeal against a bankruptcy declaration judgment is required to annul the appealed judgment and instead rule to reject the bankruptcy petition. This position is based on the fact that the state of cessation of payments has ceased to exist and is no longer present. Since an ordinary appeal-whether by opposition or by appeal-confers upon the appellate judge full jurisdiction to re-examine the case on both factual and legal grounds, and given that the state of cessation of payments no longer exists, the judicial body reviewing the appeal must dismiss the bankruptcy petition due to the absence of an essential

condition for declaring bankruptcy, namely the cessation of payments(17).

Supporters of this view further reinforce their argument by invoking considerations of justice and equity. In their opinion, it would be unreasonable and unjust to subject a merchant to the severe legal consequences of bankruptcy when they have become capable of settling all their debts(18).

These justifications are also supported by certain judicial precedents, which have held that the annulment of the appealed judgment by the appellate court, followed by the rejection of the bankruptcy petition due to the termination of the state of cessation of payments, is grounded in the very nature and purpose of a bankruptcy declaration judgment itself(19).

Indeed, the issuance of a bankruptcy declaration judgment gives rise to a new legal status and creates legal positions that did not previously exist. Consequently, it becomes incumbent upon the judicial body reviewing the appeal to take into consideration the new circumstances and factual developments that have arisen since the issuance of the initial judgment. On this basis, the appellate court should annul the bankruptcy declaration judgment and issue a new ruling rejecting the bankruptcy petition, due to the absence of the state of cessation of payments, which constitutes an essential condition for declaring bankruptcy(20).

From our perspective, we criticize the Algerian legislator for failing to resolve this issue through an explicit legislative provision, unlike the approaches adopted by Egyptian and Iraqi legislation. Article 357 of the Algerian Commercial Code does not address this issue, nor does it confer upon the judicial body reviewing the appeal the authority to either uphold or annul a bankruptcy declaration judgment on this ground.

On the contrary, the content of this article relates to a different matter altogether, namely the court's authority to terminate bankruptcy proceedings. Moreover, this authority is not absolute but is strictly limited to two specific situations:

1. Where no debts are due;

2. Where the bankruptcy trustee holds assets sufficient to satisfy all the debts of the bankrupt debtor. (21)

Conclusion:

The issue of ordinary appeal methods against bankruptcy declaration judgments under Algerian legislation is of considerable importance in the current legal context. This importance is particularly evident in light of the clear and significant disparity between the provisions of the Code of Civil and Administrative Procedures and those of the Commercial Code with respect to appeal deadlines and persons entitled to lodge appeals. Such disparity directly affects the protection of the rights of all parties involved, namely safeguarding the rights of the bankrupt debtor on one hand, while ensuring the rights of creditors and other interested parties on the other. The ultimate objective is to achieve a procedural balance guided by the principles of justice and equity, while preventing potential harm arising from the issuance of a bankruptcy declaration judgment.

In addition, this topic necessitates clarification of the legal effects resulting from the termination of the state of cessation of payments during the pendency of an appeal against a bankruptcy declaration judgment, whether such an appeal is brought by way of opposition or appeal.

In addressing this subject, we divided the study into two main sections. Through these sections, we sought to shed light on the ordinary appeal methods available against bankruptcy declaration judgments, as well as the legal consequences arising from the termination of the state of cessation of payments during appeal proceedings.

Ultimately, this research led to several conclusions, which may be summarized as follows:

1- A bankruptcy declaration judgment is governed by a special legal framework that distinguishes it from other judicial rulings, particularly with regard to the ordinary appeal mechanisms available against it.

2- The Algerian legislator reduced the time limit for filing an opposition from one month, as provided for in the Code of Civil and Administrative Procedures, to ten days under the Commercial Code, with the period commencing upon the completion of the final publication or announcement procedure.

3- In addition to the judgments excluded from opposition under the Code of Civil and Administrative Procedures, the Algerian Commercial

Code excludes other specific categories of judgments from being subject to opposition.

4- The Algerian legislator also reduced the appeal time limit from one month under the Code of Civil and Administrative Procedures to ten days under the Commercial Code, starting from the date of notification of the judgment. The competent judicial council is required to rule on the appeal within a maximum period of three months by a decision that is immediately enforceable upon its drafting.

5- The right to appeal a bankruptcy declaration judgment is limited to the parties to the original proceedings, unlike opposition, which may be lodged by any interested party, even if such party was not involved in the original lawsuit.

6- The Algerian legislator did not regulate the issue of the termination of the state of cessation of payments during the pendency of an appeal against a bankruptcy declaration judgment, whether by opposition or by appeal. In contrast, several comparative legislations, including Arab legal systems, have addressed this matter through explicit provisions that leave no room for interpretation.

Based on the foregoing conclusions, we deem it appropriate to put forward the following recommendations:

7- The Algerian legislator should reformulate the title of Chapter Three of Part One, Book Three of the Commercial Code to read "Ordinary Appeal Methods," or alternatively incorporate provisions regulating extraordinary appeal methods within this chapter.

8- The Algerian legislator should expressly regulate the legal effects of the termination of the state of cessation of payments during the pendency of an appeal against a bankruptcy declaration judgment, whether by opposition or by appeal.

9- Mandatory foundational training should be provided for judges of specialized commercial courts and commercial chambers within judicial councils, in a manner consistent with the nature of commercial disputes in general and bankruptcy and judicial settlement disputes in particular.

10- As part of the modernization of the justice system, the Algerian legislator should expand electronic litigation to include commercial disputes.

11- Finally, the Algerian legislator should consider adopting alternatives to the traditional bankruptcy system, in line with approaches adopted in certain comparative legislations.

Referrals and References:

(1)- Prior to Civil Code amendment and Administrative Procedure by Law No. 22-13 dated July 12, 2022, specialized jurisdiction over bankruptcy and judicial settlement cases technically fell under specialized divisions ("pôles") which, however, were not effectively established on ground. Consequently, and in this situation light, the courts convened at judicial councils (cours) remained competent judicial bodies with specialized jurisdiction to adjudicate this lawsuit type.

- حنان مازة، سعيد بوقرور، النظام القانوني للمحكمة التجارية المتخصصة، مجلة الدراسات القانونية المقارنة، مخبر القانون الخاص المقارن، كلية الحقوق جامعة حسيبة بن بوعلي الشلف، المجلد09، العدد01، 2023، ص.273.

(2)- The same approach that was adopted by Egyptian legislator under Article 89 of Law No. 11 of 2018, which organizes restructuring, preventive settlement, and bankruptcy, issued in Egyptian Official Gazette, Issue No. 7 Bis (D), dated February 19, 2018.

(3)- Article 313 of Civil and Administrative Procedure Code, in its first and second paragraphs, exclusively enumerates appeal methods. Its first paragraph sets out ordinary appeal methods, represented by Opposition and Appeal. Conversely, second paragraph addresses extraordinary appeal methods, represented by Third-Party Opposition, Petition for Review, and Appeal for Cassation.

(4)- Chapter Three of First Part, titled "On Bankruptcy and Judicial Settlement", within Third Book titled "On Bankruptcy, Judicial Settlement, Rehabilitation, Bankruptcy-related Crimes, and Other Offenses".

(5)- عبد الرحمن بربارة، شرح قانون الإجراءات المدنية والإدارية (القانون رقم 08-09 مؤرخ في 23 فيفري 2008)، منشورات بغدادي، الجزائر، ط.4، 2013، ص.ص258-259.

(6)- محمد الطاهر بلعيساوي، غنية باطلي، قانون الإجراءات الجماعية (الإفلاس والتسوية القضائية) دراسة مقارنة، دار هومه، الجزائر، 2016، ص106.

- وفاء شيعاوي، الإفلاس والتسوية القضائية في القانون الجزائري، ديوان المطبوعات الجامعية، الجزائر، ط.2، 2013، ص.ص 49-50.

- خالد بيوض، قانون الأعمال قانون الإفلاس في التشريع الجزائري والمقارن، بيت الأفكار، الجزائر، ط1، 2022، ص.ص64-65.

- راشد راشد، الأوراق التجارية الإفلاس والتسوية القضائية في القانون التجاري الجزائري، ديوان المطبوعات الجامعية، الجزائر، ط.7، 2019، ص.230.

- نسرين شريقي، الإفلاس والتسوية القضائية، دار بلقيس للنشر، الجزائر، ط.1، 2013، ص39.

(7)- راشد راشد، مرجع سابق، ص.231 - فتيحة يوسف المولودة عماري، دروس في الإفلاس والتسوية القضائية في القانون التجاري الجزائري، ألقيت على طلبة سنة ثالثة تخصص قانون خاص، كلية الحقوق، جامعة أبو بكر بلقايد تلمسان، 2018-2019، ص.ص36-37.

(8)- عبد الرحمن بربارة، مرجع سابق، ص 259.

(9)- مرابط حبيب عثماني، نظام الإفلاس والتسوية القضائية، محاضرات ألقيت على طلبة سنة ثالثة ليسانس، شعبة العلوم المالية والمحاسبة، تخصص محاسبة ومالية، قسم العلوم المالية والمحاسبة، كلية العلوم الاقتصادية والعلوم التجارية وعلوم التسيير، جامعة زيان عاشور- الجلفة، 2021-2022، ص61.

For reference, Egyptian legislator, in first paragraph of Article 88 of Law No. 11 of 2018, permitted any interested party other than litigants to object to a bankruptcy declaration judgment before court that issued it within thirty (30) days from date of its publication in newspapers, unless it has been appealed, in which case objection is raised before court hearing appeal.

(10)- عبد الرحمن بربارة، مرجع سابق، ص 260.

(11)- محمد الطاهر بلعيساوي، غنية باطلي، مرجع سابق، ص.ص 107-108 - وفاء شيعاوي، مرجع سابق، ص.50 - خالد بيوض، مرجع سابق، ص.65 - راشد راشد، مرجع سابق، ص.ص.230-231. - نسرين شريقي، مرجع سابق، ص39.

- For reference, Egyptian legislator, in second paragraph of Article 88 of Law No. 11 of 2018, subjected the appeal period for a bankruptcy declaration judgment to provisions contained in Egyptian Code of Civil and Commercial Procedures.

(12)- فتحي طيطوس، الحكم القاضي بشهر الإفلاس في التشريع الجزائري، مجلة البحوث في الحقوق والعلوم السياسية، جامعة ابن خلدون تيارت، المجلد06، العدد01، 2020، ص90.

(13)- إلياس ناصيف، موسوعة الوسيط في قانون التجارة الجزء السادس، الصلح الواقي والافلاس1، المؤسسة الحديثة للكتاب طرابلس، لبنان، 2008، ص.ص 168- 169.

(14)- For reference, certain legislations have decisively resolved the controversy surrounding this issue. For instance, Egyptian legislator, under Article 91 of Law No. 11 of 2018 concerning Restructuring Regulation, Preventive Settlement, and Bankruptcy, as well as the Iraqi legislator under Article 583 of Commercial Code, have adopted a clear stance.

Iraqi judiciary, both, has consistently upheld this same position historically and in modern times, as evidenced by numerous rulings. A notable example is decision issued by Baghdad Court of Appeal (Case No. 1539/Civil/613 dated 16/12/1963), which ruled to annul a bankruptcy declaration judgment based on state cessation of payments cessation.

(15)- إبراهيم بن داود، نظام الإفلاس والتسوية القضائية في القانون التجاري المقارن، دار الكتاب الحديث، القاهرة، مصر، 2020، ص89.

- مرتضى حسين إبراهيم السعدي، النظام الإجرائي لإفلاس الشركة المساهمة والدعاوى الناشئة عنه، دراسة مقارنة، المؤسسة الحديثة للكتاب، لبنان، ط.1، 2014، ص 107.

- إلياس ناصيف، مرجع سابق، ص164.

- وفاء شيعاوي، مرجع سابق، ص51.

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(17)- إبراهيم بن داود، مرجع سابق، ص89 - مرتضى حسين إبراهيم السعدي، مرجع سابق، ص 107. - إلياس ناصيف، مرجع سابق، ص165 - وفاء شيعاوي، مرجع سابق، ص.ص51-52 - لياس بروك، مرجع سابق، ص32 - نادية فضيل، الإفلاس والتسوية القضائية في القانون الجزائري، ديوان المطبوعات الجامعية، الجزائر، ط.2، د.س.ن، ص23 - سعيدة راشدي، محاضرات في الإفلاس والتسوية القضائية في القانون التجاري الجزائري، قسم قانون الأعمال، كلية الحقوق والعلوم السياسية، جامعة بجاية، ص33.

- As a reminder, Egyptian legislator adopted this approach, as evidenced by provisions of Article 91 of Law No. 11 of 2018.

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-In this regard, it is of paramount importance to note that nature of bankruptcy system renders all debts immediately due and payable, as all maturity periods whether short-term or long-term are accelerated.

(19)- إلياس ناصيف، مرجع سابق، ص165.

(20)- مرتضى حسين إبراهيم السعدي، مرجع سابق، ص.ص 107-109 - إلياس ناصيف، مرجع سابق، ص165.

-In this regard, it is of paramount importance to note that nature of bankruptcy system renders all debts immediately due and payable, as all maturity periods whether short-term or long-term are accelerated.

(21)- لياس بروك، مرجع سابق، ص32.