

BELORUSSIAN BANKRUPTCY LAW: A COMPARATIVE ANALYSIS WITH THE AMERICAN BANKRUPTCY SYSTEM.

I. THE HISTORY OF BANKRUPTCY LAW

a. History of American bankruptcy law

The bankruptcy legislation in the USA has a long history which inextricably linked with economic development. Changes in economic modifies the rights of creditors and debtors. The first official bankruptcy law was enacted in 1800 in response to land speculation. It was repealed in 1803. And then throughout the century was serial of changes in bankruptcy law. The first two laws, those of 1800 and 1841, allowed only minimal discharge of debt; while the 1867 law was the first to include protection for corporations.

The first modern Bankruptcy Act in America, sometimes called the "Nelson Act" was initially entered into force in 1898. It remained in effect for eighty years, until it was replaced in 1978. From this Act began era of liberal debtor treatment. The current Bankruptcy Code was enacted was passed in 1978 and took effect on October 1, 1979. This act, created a strong business reorganization Chapter: Chapter 11. In general, the Reform Act of 1978 made it easier for both businesses and individuals to file a bankruptcy and to reorganize. In 1986, Chapter 12 was created for the adjustment of debts of a "family farmer" or a "family fisherman." In the next years was a number of changes in bankruptcy legislation: the Bankruptcy Reform Act of 1994, which contains many provisions for both business and consumer bankruptcy, one of the most important addition was an attempt to encourage consumer debtors to use Chapter 13 to reschedule their debts rather than use Chapter 7 to liquidate. On April 19, 2005, was enacted the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCA). The main purpose of this Act – prevent abuse bankruptcy system by consumer debtors. From 1978 to 2005, personal bankruptcy filing increased ninefold, and a lot of financial companies were claiming that the bankruptcy process was been abused – many people filed bankruptcy while they can make payments to their creditors, but chose don't do so. Specifically, the BAPCPA initiated a means test to determine if the filing will be made under Chapter 7 or Chapter 13. If, according the test, a debtor has enough income to pay a certain amount to creditors, then the court will dismiss the debtor's Ch.7 case.

I think this is not the latest changes in the USA bankruptcy law, and I hope that future changes will help debtors and creditors easier, faster and more efficiently resolve their financial difficulties.

b. History of Belorussian bankruptcy law

For better understanding Belorussian bankruptcy law, need to understand the history of the economy and particularly the history of the credit system in Belarus. Because Belarus was a part of USSR, it had the same economic principles and basics. Banking in the USSR was a state monopoly - all credit institutions were state-owned. The state provided short-term credits for state entities and agricultural institutions, but consumer credits for individuals in the USSR did not exist. Some companies offered their employees short term, 0% interest credits, the repayment occurred through withholding money from an employee's earned wages. The most credits for state's companies were never repay and discharged, become a budgetary subsidies. Thus in the country was economic model where wasn't debtors, creditors, bankrupts, and as result wasn't bankruptcy and insolvency law.

Situation began to change in 1989, when was reformed banking and credit system and then, after the collapse of USSR and global changes in economic there is a need to adopt a package of laws and legal norms on bankruptcy. Nevertheless, as living standards in the country is not high, the consumer credits do not have such widespread as in the U.S. Probably this is the reason for the lack of legislative regulation of individual bankruptcy. However, the draft law about consumer bankruptcy developed in the Belorussian parliament.

Formation of the institute of business bankruptcy of modern Belarus began with the adoption before the collapse of the Soviet Union Law of the BSSR "On Economic Insolvency and Bankruptcy on May 30, 1991. It was probably not a law but a certain concept, because it contained no details of regulated procedures. It consisted of only 46 articles had no rules governing the conduct of financial reorganization, activities trustees, creditors and the debtor. As a result, in the 1990's the number of bankruptcy cases in Belorussian was only a few dozen per year. Ineffectiveness of the existing national system of bankruptcy, and the objective need for the functioning of this institution led to the development of the Law "On economic insolvency (bankruptcy)" on July 18, 2000, which is currently in effect.

II. THE NATURE AND SOURCE OF BANKRUPTCY AND INSOLVENCY LAW

American bankruptcy system set up different types and forms of bankruptcy, flexible enough to provide two different goals- creditor protection and debtor relief. There is a good balance between these purposes. Creditors get a collective remedy that includes all of debtor's assets,

Debtor get a fresh start and relief from financial pressure. The law offers real help to the debtor to overcome the financial crisis- for individuals to prevent poverty, for businesses to “keeping the ship afloat”.

Belorussian bankruptcy law is based on different principles. The idea of “fresh start” for debtor doesn’t exist in the Belorussian legislation, debtor almost doesn’t have any rights, unlike creditors who have extensive rights and whose interests are protected by law. Furthermore, the debtor must file the bankruptcy petition if he can’t pay his debt more than 3 month. Fail to meet this requirement implies an administrative and subsidiary liabilities for debtor. Belorussian bankruptcy law provides 2 types of bankruptcy- the liquidation and the reorganization, and debtor doesn’t have a right to choose bankruptcy type. Only the court decides which kind of bankruptcy relief will be better for debtor and creditors. In a practice matter, the liquidation bankruptcy is the norm, and the reorganization is almost never happen. Thus the main purpose of Belorussian bankruptcy law is maximum satisfaction of creditor's claims even through the ruin and destruction of the debtor.

In the USA, most of the bankruptcy law is federal, and codified in three United State Codes:

- Title 28 – the Judicial Code governs the organization of the bankruptcy courts, jurisdiction of bankruptcy judged, treatment of US trustees, and venue;
- Title 18 – the Criminal Code defines the criminal conduct relating to the bankruptcy;
- Title 11 – the Bankruptcy Code contains the bankruptcy substantive rules, definitions, procedural rules and governs bankruptcy liquidation and reorganization cases.

Furthermore, various of state law applied in bankruptcy, in particular the issues of property of the estate, exemptions from property of estate, property rights in the assets etc. govern by the state law.

Local court rules are also applied to bankruptcy cases.

Belorussia is unitary state, thus has uniform law. Furthermore, the Belorussian legal system is based on “code law” in contradistinction to United States common law system. Bankruptcy of business entities or sole proprietorships governs by:

- Law of the Republic of Belarus "On economic insolvency (bankruptcy)” enacted in 07/18/2000, # 423-3;
- Administrative Code;
- Criminal Code;
- Presidential Decree № 328 from 06/25/2010;
- Presidential Decree № 508 from 11/12/2003
- The Supreme Commercial Court’s rules.

Consumer debt collection regulates non-bankruptcy law, in particular Civil Code and Civil Procedure Code.

III. DEBTOR ELIGIBILITY AND THE DIFFERENT FORMS OF BANKRUPTCY RELIEF

Section 109 of BC sets out the general qualification of debtors for bankruptcy relief. It covers almost everyone who is resident or has some connection to the United State (a domicile, place of business or property): individuals, family farmer, partnership, corporations and municipalities. Some debtors are eligible for relief under particular chapters, but others are not. Eligibility for Ch.7 is very broad, excepting only certain narrowly defined classes of debtors (railroads, who can seek bankruptcy relief under Ch.11, domestic and foreign insurance companies, banks and financial institutions). The eligibility requirements for Ch.13 are very narrow-only individuals with regular income are eligible. Relief under Ch. 12 can seek only family farmer or family fisherman, who has regular annual income. Accordingly Ch.11, an individual, partnership, and corporations except insurance company and banks may apply for bankruptcy. Eligibility under Ch.9 is also narrow limited. Only municipality “specifically authorized, in its capacity as a municipality or by name, to be a debtor under such chapter by State law”. Thus, American bankruptcy law is very flexible and depending on the financial condition of the debtor, his desire to continue the business or liquidate his assets or business offers different variations to overcome the financial crisis.

Under the Belorussian bankruptcy law, only a business entity or sole proprietorship can be a debtor for bk. relief. Individuals can't file a bankruptcy case. Problems of consumer debt are governed by state collection law. The BK law provides 2 forms of bankruptcy for business entity and sole proprietorship- liquidation and reorganization. But the solution about reorganization or liquidation is adopted in a process in the bankruptcy case. In other words, the debtor is not entitled to choose itself a form of bankruptcy.

IV. INDIVIDUAL BANKRUPTCY/DEBT ADJUSTMENT

How was mentioned above, in Belorussia doesn't exist a bankruptcy for individuals. In Belorussia consumer debt collection regulates non-bankruptcy law, in particular Civil Code and Civil Procedure Code. In contradistinction to American BK law, where individual can apply for liquidation (Ch.7), debt adjustment (Ch.13), and reorganization (Ch.11). Compare American and Belorussian models. In American Bk. Law:

- Individual can choose a form of bankruptcy relief;
- Broad exception;

- Under Ch.7 the debtor keeps future income;
- The discharge of debts;
- Fresh start.

In Belorussian state collection law:

- Prejudgment debt adjustment;
- Very narrow exception (for example don't include any car);
- Seizure of property;
- No discharge.

In a practice matter debt collection has three steps:

1. Prejudgment proceeding- which include claim, negotiations and debt adjustment;
2. Litigation;
3. Execution of court decision.

It seems very easy and usefull, but in reality unsecured creditors have a lot of complexities in collecting debts. Secured creditors can enforce a lien against the assets of the debtor to satisfy a debt. While for unsecured creditors debt collection becomes a nightmare. Under the Belorussian law, there are not debt collections in the county. The most of law firms and companies provide the debt collection service, but again, they have a few difficulties to realization these services. First of all, the law company can't redeem a debt for future collection from a debtor, it means that the creditor must pay a law company for debt collection. Thus, creditor's costs increase, while chances of getting the debt reduced. Second, lawsuits against individuals under the jurisdiction of the general courts and Creditor must represent himself in court or his employees, but a law company has no right to represent creditor's interests against an individual debtor in a general court.

However, even if the creditor gets judge enforcement against a debtor, execute it will be difficult. Usually, a seizure property doesn't cover the debt amount, and the remainder of the debt paid out from debtor's future income. Despite the fact that the payment comes from all income, including wages and pensions (but no more than 30%), repayment of debt sometimes delayed of years.

It is obvious, that in this situation adoption of the bankruptcy law for individuals is absolutely necessary. This law will be help creditors to get their money back and protect debtor from creditor harassment and ruination.

V. BUSINESS BANKRUPTCY OVERIEW

a. Brief introduction in Belorussian business bankruptcy law.

Because the bankruptcy system of both country is completely different, it is necessary briefly introduce the Belorussian business bankruptcy law before comparative analysis these system.

There are stages of business bankruptcy in Belorussia:

1. File petition. The right to file a bankruptcy petition granted the debtor, its creditors, prosecutors, tax state authorities and other public authorities.

After petition was filed and court decided to start bankruptcy case, began the protection period.

2. Protection period (no more than 3 month). The main purpose of protection period is analysis of debtor's financial condition. At the time of protection period the court appointed the "temporary administrator", who make a total financial revision, inventory of debtor's property, lists all creditor and debts amount. In addition the temporary administrator should find out for signs of a false bankruptcy or deliberate bankruptcy. At the end of protection period, the temporary administrator must to submit to the court a report on his activities and opinion on the financial condition and solvency of the debtor. Upon review of temporary administrator's report, the court can decide: open of bankruptcy proceedings process or dismiss the bankruptcy case.
3. Period of bankruptcy proceedings. In case of reorganization- 22 month, in case of liquidation- 16 month. After the bankruptcy proceeding process was begin, the court exempt from the duties of temporary administrator and appointed a Crisis manager. Right to control all the affairs of the debtor granted to Crisis manager, company Head (director) suspended from work. The Crisis manager must develop a plan for reorganization or liquidation of the debtor that must be approved by the creditors' meeting.

The reorganization is carried out if there are reasonable grounds for believing that the debtor's solvency can be restored. Term reorganization, as a rule, should not exceed 18 months from the date of the decision to hold it (with possible extension for up to 12 months). At the period of reorganization all participant of bankruptcy case take legal action to restore of debtor's solvency. If, as a result of these actions the reorganization was successful and the debtor's solvency restored, the Court terminates the bankruptcy case. As a result of termination of bankruptcy case, powers of the debtor's Head (director) are restored, and all restrictions imposed in connection with the process of the bankruptcy case are abolished.

If despite taken actions, restoring solvency of the debtor was failed, the Court decides to start the process of debtor liquidation.

The goal of liquidation proceeding is liquidation of the debtor, sale of the debtor's property, equitable distribution of debtor assets and discharge of debtor's debts. The term of the liquidation proceedings may not exceed one year, the court may extend the period of liquidation proceedings for six months. After the commencement of liquidation proceedings Crisis manager sells the debtor's property at auction, distributes the assets in accordance with the register of creditors' claims and represent to the court a report on the completion of the liquidation process. After consideration by the court a report of crisis manager about liquidation process the court decides on the completion of liquidation proceedings.

4. Amicable agreement, if it is contained. Feature of Belorussian bankruptcy law is a possibility and the priority of an amicable agreement at any stage of proceedings in the bankruptcy after the debt repayment to classes A and B creditor's claims. The decision about the amicable agreement must be adopted by the meeting of creditors. The amicable agreement is deemed adopted if all secured creditor voted for it. The Amicable agreement must be approved by the Court, if it's approved, the court shall issue a ruling on dismissal of the bankruptcy case.

Furthermore, the Belorussian bankruptcy law provides special regulation of bankruptcy for city-forming companies, agricultural organizations and farms, banks and financial groups, insurance organizations, stockbrokers and commodity brokers, sole proprietorship.

Below I will discuss in more detail on the comparison and analysis of the main provisions of the bankruptcy law of two countries.

b. Starting the case.

In Belorussia and in the USA a business bankruptcy case begins with filing of a bankruptcy petition. The significant difference is in capability of choosing a bankruptcy form. If in the USA the petitioner can choose liquidation (Ch.7) or reorganization (Ch.11) bankruptcy relief, then in Belorussia a petitioner can't choose. The decision about liquidation or reorganization made by creditor's committee and approved by the court.

Furthermore, in the USA the most bankruptcy cases are voluntary. The reason is obvious – very narrow terms for creditors, who can trigger bankruptcy relief. Nor is involuntary relief allowed against farmers, or corporations that are “not a moneyed, business, or commercial corporations.” Creditor's eligibility limited by amount of *unsecured* claims, furthermore, a minimum number of eligible creditors is require.

In Belorussia, in contrast, involuntary bankruptcy cases constitute almost half of all bankruptcy cases. Accordingly the Belorussian bankruptcy law, the right to file bankruptcy petition has a debtor, a creditor, an IRS officer, a state prosecutor, and other state servant. The basis for creditor to file an involuntary bankruptcy case against the debtor is the presence of a creditor

reliable data about debtor insolvency or if debtor fails his payment obligations during the period established by the creditor to repay the debt, but not less than one month.

Furthermore, debtor is obligated to file bankruptcy if he can't pay his debts or satisfaction of creditor's requirements leads to unable to fulfill debtor's monetary obligations in full before other creditors or the termination of the debtor's business activity. Debtor must file bankruptcy not later than one month since the beginning of this base. Failure to file the bankruptcy petition by the debtor in cases and the period stipulated in the law implies the subsidiary and administrative liability.

c. The automatic stay.

The integral component of bankruptcy cases in the USA is automatic stay. It arises automatically upon the filing of a bankruptcy petition. It applies in all form of bankruptcy and holds true for voluntary and involuntary cases. The automatic stay exercises two main functions:

- Creditor protection- stay prevents depletion of the debtor's assets. All activities against property of the debtor and against property of the estate are prohibited.
- Debtor protection- all activities against the debtor are prohibited.

Thus the automatic stay preserves the status quo during the pendency of the bankruptcy case that is critical because usually the bankruptcy case takes a long time to process.

In contrast, in Belorussian bankruptcy law the automatic stay doesn't exist. However, since the court made a decision to initiate the bankruptcy case proceeding, the limitation is imposed on the following types of activity:

At the time of the protection period:

- Suspend all litigation of debtor's debt collection;
- Suspend all court writs of execution against property of the debtor, exclude personal injury compensation debts, and employee's wages and benefits debts.
- Founder (participant) prohibited from partition and receiving part of debtor's assets, on the basis of his output from the founders (participants).

At the time of bankruptcy proceedings period:

- Suspended claims of creditors on payment obligations including mandatory payments;
- Do not accrue interest, penalty (fine, penalty), and other economic (financial) penalties for any failure to pay obligations;
- All claims of creditors against the debtor may be brought only in the manner prescribed by this Law.

Thus, Belorussian bankruptcy law as well as in U.S. law preserves the status quo during the bankruptcy process.

d. The bankruptcy estate.

At the moment a bankruptcy petition is filed, the bankruptcy estate is created. In this section of bankruptcy laws of both countries are similar in many ways. Bankruptcy estate is consisting of all debtor interest in property.

Based on Belorussian bk. Law, the debtor must continue operation before the court will approve the creditor's meeting decision about reorganization or liquidation. Thus, future income of debtor, produce by continue operations is also property of estate and will be used in bankruptcy process.

The same rules apply for bankruptcy reorganization (Ch.11) in the USA. Also, despite the fact that under Ch.7 property that the debtor acquires postpetition is generally excluded from estate, accordingly §721, §363 (c) (1), §364 (a) in business liquidation under Ch.7, the court may allow the trustee to continue the debtor's business operations if the business will be worth more as a going concern. Furthermore, certain right arising postpetition are also included in estate, under §541(a) (6) these include "Proceeds, product, offspring, rents, or profits of or from property of the estate".

There are differences in law of both countries in properties excluded from the estate. In American bankruptcy system a list of exemption much wider, while the Belorussian bankruptcy law provides only two exemptions:

- Property withdrawn from economic circulation. Withdrawn from circulation are property that can't freely sold or transferred to the ownership from one owner to another. Properties and objects taken out of circulation must be specified in the law. For example, a municipal infrastructure facilities serving the region.
- property rights associated with the personality of the debtor, and rights based on the special permit (license) to carry out certain activities.

Also in bankruptcy system of both countries, trustee or a debtor in possession or Crisis manager have the avoidance power enable them to set aside certain transaction entered into by the debtor prior to filing of the petition. This power is part of them obligation to collect and save the property of estate and maximizing the estate's value. In Belarus, as well as in U.S. law the following types of transfers may be avoided:

- transfer of property that would be avoidable in non-bankruptcy law;
- certain transactions occurred in short period before petition;

- fraudulent transfers and obligations that occurred before petition.

Furthermore, Belorussian bankruptcy law provides personal responsibility for Head (director) of the debtor for damage to property and actions leading to the bankruptcy of the debtor.

e. Control and management in bankruptcy cases.

In American bankruptcy system, to control and administer the bankruptcy estate, conduct business operation, represent the collective interest of creditors, and manage bankruptcy process, in liquidation case under Ch.7 must be appointed the trustee. In Ch.11 case, the debtor remains in possession of property of the estate and operate the business. But, if impartial control to the estate is necessary, the trustee or examiner can be appointed in Ch.11 case.

The trustee has a very wide powers and number of duties, such as investigate the debtor's affairs, employing professionals, examining and contesting claims, enforce the right of the estate, participate in litigation involving the bankruptcy estate interest, liquidate and distribute the bankruptcy estate, etc.

In a Ch.11 case, usually the same management team still in charge, the reason is that new managers will take a time to grasp the situation, but for successful reorganization, the business must continue to operate and can't wait and risk.

In Belorussian bankruptcy system, a bankruptcy case consists of two stages: protection period and period of bankruptcy proceedings. At the time of protection period the Court appointed a temporary administrator. The main goals of the "temporary administrator" are analysis of financial condition and business of the debtor, and preservation and protection of the bankruptcy estate. However, the management team (direction) of debtor still in charge, although the court at the request of "temporary administrator" may dismiss the management team of debtor. The management team of the debtor in the process of protection period can conduct transactions and make its payment obligations only with the permission of the "temporary administrator". By the end of protection period, the temporary administrator presents to the court a report on his activities and the conclusion of the financial condition and solvency of the debtor.

Since the beginning of the bankruptcy proceedings period, Court frees temporary administrator of his duties and appointed the Crisis Manager, while The Head (Director) of the debtor suspended from work for a period determined by the court. Duties and powers of crisis manager are very wide and similar American's trustee, he conducts the debtor's bankruptcy process, and carries out all necessary actions and steps for a successful reorganization or liquidation of the debtor. Furthermore, the crisis manager is financially responsible for damage of bankruptcy estate caused by his fault.

f. Claims.

The essential component of bankruptcy system is a “claim”, because all bankruptcy cases are based on treatment and disposition of the “claims” of creditors. Only claims may be paid or discharged in bankruptcy, furthermore, only creditors holding claims can be participants in bankruptcy case and entitled to vote.

In general, definition of claim, classification claims and some principles are similar in bankruptcy laws of both countries. So for example, only monetary right can be qualify as a claim; the ranking of claim is the same in all form of bankruptcy; a senior class must be paid in full before the next class is entitled to any distribution.

But there are significant differences in the banking system of the two countries. Consider the essential differences:

1. The filing and allowance process.

In American Bk. system, the debtor require to list all creditors when he filed bankruptcy petition or shortly after that. Ordinarily, a creditor will receive from the court a proof claim form. In general, a creditor must file a proof of claim and provide evidence of nature and amount of claim. A date by which proof of claim must be filed varies depending on the form of bankruptcy. Secured claim encumbers specific property of the estate need not prove a claim. Furthermore, in Ch.11 case creditor need not file a proof of claim if he agrees with the claim listed by the debtor. Once claim is proved it is allowed automatically, unless party in interest object.

In Belorussian Bk. System, at the time of protection period the “temporary administrator” requires to establish list of creditors and to determine the amount of their claims. After the period of bankruptcy proceeding was begin, creditors must submit their claims to the debtor within two months from the date of publication of the notice on the opening of bankruptcy proceedings. Crisis Manager considers the claims of creditors and makes a register of creditors' claims. After that, at a meeting of creditors occurs protection of creditors' claims. Claim is allowed if against it did not object to the Crisis manager and none of the creditors present at this meeting of creditors. Furthermore indicate the amount of claim and the order of distribution of this claim.

2. The order of distribution in Bankruptcy.

This diagram summarizes the order of distribution in both countries.

Class of creditor	USA bankruptcy system	Belorussian bankruptcy system
A	Secured claims: Fully secured claims Partially secured claims	Legal expenses, administrative expenses, ordinary-course business expenses arisen in the course of bankruptcy proceedings, creditor's claims arisen in the course of bankruptcy proceedings.
B	Priority claims: -administrative expenses - ordinary-course business expenses in gap period between filing and order for relief in involuntary case; - wages and salaries; - employee benefit; - various taxes; - claims arising out of federal depository insurance; - claim for wrongful death or personal injury;	Claims from individuals for wrongful death or personal injury
C	General unsecured claims	Wages and salaries and employee benefit
D	Claims for fines, penalties, etc. which are not compensation for actual pecuniary loss	Mandatory payments: taxes, fees and other payment contributions to the budget
E	Interest on priority and general unsecured claims	Secured claims
F	Any surplus remaining goes to the debtor	Unsecured claims

g. Discharge.

The discharge, or statutory forgiveness of debtor's debts that are not paid in full in bankruptcy case, not apply equally in all forms of bankruptcy. Accordingly American bk. system, a corporation, or other legal entity liquidated under Ch.7 or Ch.11 can't be granted a discharge. The unpaid debts remain with the corporate shell.

Unlike Ch.7, the Ch.11 reorganization debtor generally entitled to discharge includes all prepetition debts, and also debts that arose before date of confirmation.

In contrast, under Belorussian bankruptcy law, the discharge can be granted only in debtor's liquidation case. After debtor is finished a liquidation process, all his debts are discharge. In case

of reorganization, the debtor must to meet all requirements of creditors. The goal of bankruptcy reorganization is reestablish a solvency of the debtor. Thus, if reorganization is successful, then the debtor is solvent and can pay off all his debts and discharge can't be granted.

h. Features of business reorganization process.

In a business reorganization case the debtor continue to operate the business. In the USA debtor in possession administer the estate and operates business. In Belorussia at the time of bankruptcy proceedings period, Court appointed the Crisis Manager who protects the bankruptcy estate, conducts business operation and manages bankruptcy reorganization process.

Reorganization process in America and Belarus is significantly different, examine and compare the main stages of the business bankruptcy reorganization:

Plan of reorganization

USA	Belorussian
<p>The debtor in possession has exclusive right to file a plan in 120-day period after the order for relief. If the debtor doesn't file a plan during 120 days, any party of interest may file a plan. If the debtor files the plan and it was accepted by each impaired class, this pan is the only one available for confirmation. If the plan doesn't accepted the debtor has extra 60 days to get the plan accepted.</p>	<p>The Crisis manager must develop a plan for reorganization no later than 7 months after order for relief. Plan must be approved by the creditors' meeting. If the plan doesn't approve the creditor meeting can make a decision:</p> <ul style="list-style-type: none"> - Convert the case to liquidation process, or - Change the crisis manager and extend time needed to create a new plan, but no more than 1 month.
<p>A reorganization plan must classify claims and interest all creditors. The basic principles of claims classification was given above.</p>	

Disclosure

USA	Belorussia
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<p>The proponent of the plan requires to prepare a disclosure statement. The statement must contain adequate information about the financial condition of the debtor. The statement must be approved by the court.</p>	<p>Doesn't exist But at the end of protection period, the temporary administrator must submit to the court a report on his activities and opinion on the financial condition and solvency of the debtor and under this report the court make decision to start a reorganization process. Thus the report of temporary administrator is very similar a disclosure statement.</p>
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Voting on the plan

USA	Belorussia
<p>Voting is by the class of creditor. If the requisite majority of member of that class votes in favor of plan, the class as whole accepts it. Claims or interests that are not impaired don't vote so each class of claims or interest must either be unimpaired or must have accepted the plan. If any class of claims is impaired under the plan, at list one class of impaired claims must accept the plan.</p>	<p>The decision of the meeting of creditors approving the reorganization plan adopted by a majority vote of the total votes of creditors present at this meeting of creditors.</p>

Confirmation

USA	Belorussia
<p>There are 16 requirements for confirmation. If every class is either unimpaired or has accepted the plan, confirmation under §1129(a) To be confirm the plan must satisfy all requirements in §1129(a) through (13). If there is one or more impaired class that doesn't accept the plan, the confirmation can be obtain under cramdown process §1129(b).</p>	<p>Doesn't exist</p>

After confirmation in the USA or approving the plan in Belorussia, the debtor must carry out the plan. Under American law a confirmed plan discharge all pre-confirmation debts. Furthermore the reorganization process doesn't have time limit for performance of the obligation under the plan. The payments periods are stipulated by the plan and based on the business realities of the debtor's situation. If plan successfully consummated, the case is closed.

In contrast, under Belorussian bankruptcy law term reorganization, as a rule, should not exceed 18 months from the date of the decision to hold it (with possible extension for up to 12 months). Crisis manager shall submit (not later than fifteen days before the deadline sanitation) to creditors' meeting a report on the results of debtor reorganization. Creditors' meeting upon consideration of this report can make a decision about:

- termination of rehabilitation because of the debtor's solvency is restored;
- statement to the court for an extension to the term reorganization;
- statement to the court for converting reorganization case to liquidation case.

The decision of creditors' meeting about termination of rehabilitation must be approved by the court. The court accepts the debtor's reorganization successful and terminates (closes) the bankruptcy case if the debtor's solvency restored and all creditors' claims are satisfied.

i. Features of business liquidation process.

The liquidation process in both countries is similar in many ways. A business files a liquidation case when it no longer wants to keep operating because there is no hope to salvage the business. In a liquidation case the debtor's existing assets are sold or liquidate and the net proceeds are distributed to creditors and the business is shut down. The liquidation case can be filed voluntary or involuntary. Moreover, if the rehabilitation fails the Court can convert the case to a liquidation process.

However, there are significant differences in a business liquidation process. First of all, as was mention above, the countries have a completely different order of distribution in Bankruptcy. Furthermore, under American bankruptcy law debtor can't be granted a discharge in a liquidation case, but under Belorussian bankruptcy law, the discharge can be granted only in debtor's liquidation case.