Mechanisms for restoring the solvency of Russian agricultural debtors

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Abstract. The purpose of this article is to analyse the mechanisms to restore the solvency of Russian agricultural organisations. The achievement of the goal set by the authors is carried out as a result of the study of socioeconomic factors affecting the financial stability of agricultural organisations, as well as consideration of the provisions of regulations that provide mechanisms for financial recovery of agricultural organisations both outside the bankruptcy procedure and within the bankruptcy procedure. In carrying out the study, the authors used systemic and structural and functional methods of scientific knowledge, the method of interpretation of legal norms, and the logical method. As a result of the study of various factors that affect the financial stability of agricultural organisations, the authors came to the conclusion that they should be taken into account in the formation of a system of measures aimed at restoring the solvency of agricultural organisations and the establishment of regulatory and legal regulation of rehabilitation procedures in respect of such organisations. According to the authors, the proposals for improving the mechanisms of restoring the solvency and sustainability of agricultural organizations will ensure the progressive development of the agro-industrial sector of the Russian economy.

1 Introduction

Agricultural organisations play an important role in the economy of the Russian state [1-3]. And with the introduction and tightening of sanctions against Russia, the importance of the agricultural sector has increased.

Thus, in the Doctrine of Food Security of the Russian Federation, approved by Presidential Decree No. 20 of 21.01.2020 food security and food independence of Russia are named as priority directions of socio-economic policy of our state.

The Decree of the Federation Council of the Federal Assembly of the Russian Federation of 19.10.2022 No 455 SF, On Implementation of the Food Security Doctrine of the Russian Federation, states that many objectives outlined in the Doctrine have already been achieved and this has largely solved the problem of supplying the country with agricultural products, raw materials and food of domestic manufacture.

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At the same time, the issues of qualitative improvement and formation of a population type of healthy nutrition, increasing the physical and economic availability of safe and quality food products, including organic self-sufficiency in food products, preventing the withdrawal of agricultural land from circulation have not been fully resolved.

To address the issues of progressive development of the agricultural sector in Russia it is necessary to provide a system of sustainable functioning of agricultural organizations [4, 5]. The specifics of such legal entities should be taken into account in solving many issues. In particular, it is necessary to create mechanisms to prevent insolvency (bankruptcy) of agricultural producers that would work effectively in bankruptcy proceedings. The legal ways to restore the solvency of a debtor-legal entity should be adapted and take into account the specifics of activities for the production and sale of agricultural products.

2 Methodology

The work was carried out on the basis of traditional methods of scientific research of economic and legal phenomena, including both systemic and structural-functional, normative-logical, technical-legal approaches. The application of system-structural and functional methods was the basis for the analysis of factors affecting the financial stability of agricultural organizations. Normative-logical and technical-legal methods were applied to study various aspects of legal regulation of financial institutions' solvency restoration mechanisms.

3 Results

The notion of an agricultural organisation is contained in the Federal Law of 26.10.2002 No 127-FZ "On Insolvency (Bankruptcy)" (hereinafter referred to as the Bankruptcy Law). Agricultural organisations are legal entities whose main activities are the production or production and processing of agricultural products, the revenues from the sale of which amount to not less than fifty percent of the total revenues.

Agricultural organisations are the main economic entities engaged in agricultural production in Russia. Figure 1 shows the structure of agricultural production by farm category in the Russian Federation.

![Fig. 1. Structure of agricultural production by categories of farms in the Russian Federation, as a percentage of farms of all categories. Compiled by the authors according to Rosstat data - https://rosstat.gov.ru/enterprise_economy](https://rosstat.gov.ru/enterprise_economy)
The analysis of the data presented in Figure 1 indicates that the vast majority of agricultural output in Russia is produced by agricultural organizations. And there is a growing trend in the share of agricultural organizations in the total volume of agricultural products produced by all economic entities. It follows that ensuring the sustainability of agricultural organizations is a necessary condition for Russia's food security.

At the same time, agricultural organizations can be subject to negative factors affecting their financial sustainability to a greater extent than organizations engaged in other types of economic activity. The following socioeconomic factors can lead to the financial instability of agricultural organisations, which can eventually cause their bankruptcy:

1) Low profitability. Agricultural organisations cannot always guarantee a stable income due to limited markets and natural conditions.

2) High costs. Unlike other sectors, agriculture requires large investments in land, equipment, technology and other inputs.

3) Dependence on climate. Climatic conditions, such as drought, frost and floods, can have a significant impact on yields and can lead to significant financial losses.

4) Competition. Agricultural organisations often compete for the same customers, which can lead to lower prices and profits.

5) Low levels of automation and innovation. The relatively low level of automation in agriculture can reduce efficiency and increase costs of personnel and manual labour. At the same time, there is a low level of innovation in the agricultural sector. At the same time, the necessity of transitioning to the future innovation economy is mentioned in the works of Russian and foreign scientists [6-11].

6) High dependence on state support. The agricultural industry is highly dependent on state subsidies in the form of investments, export bonuses, and other forms of state support.

7) Unforeseen changes in the economy. Russia is currently experiencing a high level of pressure from sanctions. At the same time, there are changes in exchange rates, price hikes for raw materials, and other negative economic factors that negatively affect the activities of agricultural producers. Furthermore, in previous years, Russia's economy, like that of other countries, has been negatively affected by restrictions caused by the need to counteract the spread of COVID-19 coronavirus infection.

In order to prevent the insolvency of agricultural organisations, measures that would mitigate the negative effects of the above factors could be applied. In addition, a tax incentive mechanism should be developed for innovative forms of agricultural development, such as organic farming, rural tourism, cluster model of agricultural production organisation [12].

Restorative mechanisms that can be applied to agricultural debtors also play an important role. However, Russian legislation in this area is not sufficiently correct.

Before bankruptcy proceedings were instituted against insolvent agricultural producers the mechanisms of restoring their solvency were established by Federal Law No 83-FZ of 09.07.2002 "On Financial Rehabilitation of Agricultural Producers". The normative act in question envisages the possibility for a debtor to voluntarily participate in the programme of financial rehabilitation of agricultural commodity producers. Such program represents a set of measures aimed at the development of uniform conditions for the restructuring of debts by all creditors in order to improve the financial condition of agricultural producers. Debt restructuring is used as a rehabilitation procedure - an agreement-based termination of debt obligations by replacing these obligations with other debt obligations providing for different terms of servicing and repayment of obligations. We emphasise that such restructuring mechanisms can be applied by agreement between the debtor and creditors only in relation to agricultural producers. However, not all agricultural organizations are agricultural producers [13]. The legislator establishes different criteria for recognizing an entity as an agricultural organization and an agricultural producer. So, according to clause 1 article 3 of the Federal law № 264-FZ dated 29.12.2006 "Agriculture development", an organization
engaged in agricultural activities can be recognized as an agricultural commodity producer if its share of income from sale of agricultural products should be not less than seventy % per calendar year. In other words, many agricultural entities, as defined in the Law on Bankruptcy, will not be recognized as agricultural commodity producers. In our view, it is necessary to extend the mechanisms of pre-bankruptcy restoration of debtors' solvency to all agricultural organisations.

In cases where bankruptcy proceedings are initiated against agricultural organisations, other legal provisions apply. This procedure is applied in Russia and around the world to insolvent debtors on the initiative of both the debtor and the creditors and can be applied to the debtor in a compulsory manner on the application of the creditor. In our country, the norms of legal regulation of insolvency of legal entities and the specifics of declaring agricultural organisations bankrupt are found in the Law on Bankruptcy.

Article 2 of the Law on Bankruptcy provides a legal definition of bankruptcy: "...the debtor's inability to fully satisfy the claims of creditors on monetary obligations, on payment of severance pay and (or) on payment of wages to persons working or employed under an employment contract, and (or) to meet the obligation to pay obligatory payments recognised by the arbitration court or arising from the completion of the extrajudicial bankruptcy procedure of a citizen".

In the scientific literature the essence of bankruptcy of a legal entity is explained in different ways. So, Professor N.A. Breslavtseva in her writings under bankruptcy understood as "a civilized form of resolving conflict arising between creditor and debtor, allowing to some extent respect the interests of both, because after the completion of bankruptcy procedure the former debtor is released from obligations, and again has the opportunity to business, and the creditor, in turn, receives part of the spent funds". [14].

According to S.A. Karelina and A.A. Karelina, in a stable economic situation insolvency (bankruptcy) performs filtering functions for the market and civil turnover: it eliminates potentially unviable and supports the entities that have the potential to recover and continue their activities [15].

In our view, the institute of insolvency (bankruptcy) of a legal entity is designed to perform two main functions: exclusion of insolvent debtors from economic turnover and restoration of solvency of those of them that can still be rehabilitated. In this regard, bankruptcy legislation should be primarily aimed at regulating the procedures for restoration of a debtor's solvency in order to apply them effectively. This is particularly true of agricultural organisations because their role in ensuring the food security of the state has been proven to be very high.

The Law on Bankruptcy defines agricultural organisations as a separate category of debtors, in respect of which the procedures applied in bankruptcy proceedings are specifically regulated. First of all, a higher, as compared to the general minimum amount of claims necessary for the initiation of bankruptcy proceedings is established for them. For agricultural entities the bankruptcy proceedings shall be initiated provided the amount of claims is at least 500 thousand rubles (clause 5 of Article 177 of the Bankruptcy Law). In our opinion, this amount should be revised upwards to prevent the possibility of creditors abusing their right to initiate bankruptcy proceedings against an agricultural organisation.

The Law on Bankruptcy establishes peculiarities of the supervision procedure, financial rehabilitation and external management of an agricultural organization. Thus, according to point 1 of article 178 of the Law on bankruptcy in the course of monitoring the financial condition of an agricultural company the seasonality of agricultural production and its dependence on climatic conditions should be taken into account as well as the possibility to
meet creditors’ claims from income which may be received by an agricultural company at the end of the relevant period of agricultural works.

The seasonality of agricultural works is also taken into account when carrying out rehabilitation procedures applied in the case of bankruptcy of an agricultural organisation - financial rehabilitation and external management. They are introduced for the period until the end of the respective period of agricultural works, taking into account the time necessary to sell the agricultural products produced or manufactured and processed. At the same time, if in the course of these procedures there were unfavourable factors: natural disasters, epizootics or other circumstances determined by the Law on Bankruptcy, the term of each of the procedures may be prolonged by one year.

We suppose that this regulation of peculiarities of application of insolvency procedures of agricultural organizations is fragmentary and requires further elaboration, because agricultural organizations have not only specifics related to seasonality of works in agriculture, great influence of climatic and weather factors on this activity, but also other specifics, such as high costs and low profitability, which should also be considered when regulating procedures applied in bankruptcy cases of agricultural organizations.

4 Conclusion/recommendations

Thus, the economic activity of agricultural organizations has significant specifics that affect their financial sustainability and should be taken into account when creating mechanisms to restore their solvency.

Such factors as low profitability, high costs, climate dependence, competition, low level of automation and innovation, high dependence on state support, unforeseen changes in the economy influence the financial stability of agricultural organisations. Consequently, mechanisms to prevent possible insolvency of an agricultural organisation should aim to overcome the negative impact of these factors. Besides, it is important to create mechanisms of tax stimulation of innovation activity in agriculture.

It is necessary to improve the legal framework, which establishes the possibility of using procedures for the financial rehabilitation of agricultural producers, which are applied voluntarily by the subjects of agribusiness, outside the bankruptcy procedure. It is necessary to extend the right to apply such procedures to all agricultural organisations, not only to those which are agricultural producers.

As regards the regulation of bankruptcy procedures for agricultural organisations, the legal framework should also be improved. For instance, the minimum number of creditors’ claims against an agricultural company that are sufficient to initiate bankruptcy proceedings should be raised from 500 thousand rubles to 1 million rubles. It is also necessary to take into account not only the seasonality of agricultural works and the impact of climatic and weather conditions on these activities, but also other socioeconomic factors affecting the financial stability of agricultural companies when establishing the specifics of rehabilitation procedures in bankruptcy cases of agricultural organisations.

References


13. R. Ibragimov, EJ- Lawyer. 20, 10 (2016)

14. N.A. Breslavtseva, O.F. Sverchkova, Bankruptcy of organizations: basic provisions, accounting (Rostov-on-Don, Phoenix, 2007)