

THE INSOLVENCY
REVIEW

TENTH EDITION

Editor
Donald S Bernstein

THE LAWREVIEWS

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KAZAKHSTAN

*Lola Abdukhalykova*¹

I INSOLVENCY LAW, POLICY AND PROCEDURE

i Statutory framework and substantive law

Kazakhstani legislation regulates insolvency of legal entities and individual entrepreneurs. Insolvency of private individuals has been considered by local legislators since 2014 but has not yet been introduced.

Legal entities and individual entrepreneurs are subject to the same regulation. Therefore references in this chapter to the insolvency of legal entities shall be considered as references to both legal entities and individual entrepreneurs, unless otherwise provided herein.

The main legislative act regulating the insolvency of legal entities in Kazakhstan is the Law of the Republic of Kazakhstan ‘On Rehabilitation and Bankruptcy’ No. 176-V dated 7 March 2014 (the Bankruptcy Law). The Bankruptcy Law sets out, inter alia:

- a* insolvency proceedings;
- b* insolvency criteria;
- c* rights and obligations of the involved parties;
- d* insolvency procedures; and
- e* distributional priorities.

Some legal entities are subject to specific regulation of insolvency proceedings (as set out below) under other legal acts.

ii Policy

The insolvency regime is considered one of the main priorities of the Kazakhstani government as set out in the following soft law documents:

- a* Strategic Development Plan until 2025 sets out opportunities for further improvement of the insolvency proceedings of legal entities and introduction of insolvency proceedings of private individuals as one of the initiatives for development of competitive enterprises; and
- b* Development Strategy until 2050 envisages the creation of an effective private sector economy, which, in turn, anticipates the rehabilitation of businesses in financial difficulties rather than their liquidation.

¹ Lola Abdukhalykova is counsel at GRATA International.

In line with the prevailing attitude to keep failing businesses operating, the latest major legislative changes introduced into the Bankruptcy Law in 2019 were aimed at improvement of insolvency criteria for the purposes of greater separation of rehabilitation and bankruptcy, including another approach to assessment of the debtor's insolvency.

The Ministry of Finance of the Republic of Kazakhstan is the authorised body in the field of rehabilitation and bankruptcy.

iii Insolvency procedures

There are three judicial insolvency procedures stipulated under the Bankruptcy Law:

- a* restructuring, which is a judicial procedure under which the debtor and all its creditors shall enter into an 'agreement on restructuring of indebtedness' to set out, inter alia, the manner, way and timing for the performance of obligations of the debtor to the creditors. It may provide for deferral or payment by instalments, or both, of the debtor's obligations, assignment of the rights of claim of the debtor, full or partial debt forgiveness, writing off the penalty (interest or fines), reduction of the amount of remuneration or satisfaction of the claims of the creditors in other ways that do not contradict the Kazakhstani legislation;
- b* rehabilitation procedure, which is a judicial procedure, under which reorganisational, organisational-economic, managerial, investment, technical, financial-economic, legal and other measures not in breach of Kazakhstan's legislation are applied to the debtor to restore its solvency; and
- c* bankruptcy, which is insolvency that leads to liquidation of the debtor with sale of its assets and distribution of the proceeds to creditors in the payment order established by the Bankruptcy Law.

iv Starting proceedings

Initiation of insolvency proceedings

Insolvency can be established voluntarily based on the debtor's application to the court or may be imposed on the debtor, based on the creditors' application.

The grounds for initiation of the insolvency proceedings differ depending on the applicant.

To initiate bankruptcy proceedings, the following entities are entitled to apply to the court:

- a* the debtor may apply to be declared bankrupt in case of its persistent insolvency, namely if its liabilities exceed the value of its property:
 - as of the date of the insolvency application and
 - as of the beginning of the year (or beginning of the previous year if the application is submitted in the first quarter of the calendar year);
- b* the debtor shall apply to be declared bankrupt if the owner of its property or competent management body has decided to liquidate the debtor but the value of the property is insufficient to satisfy all claims of creditors;
- c* the creditor may apply to declare the debtor bankrupt in case of:
 - overdue payment obligation of the debtor to the creditor confirmed by the effective court decision or enforcement document on debt collection; or
 - acknowledgment of the debt by the debtor;

- d* the creditor for taxes and customs payments may apply to declare the debtor bankrupt if the debtor's failure to pay the amount of tax debt, as well as debt on customs payments, special, anti-dumping, countervailing duties and interest after all enforcement measures, have been taken in the manner determined by tax and customs legislation;
- e* a liquidation committee shall apply to declare the debtor bankrupt if the value of the debtor's property is insufficient to satisfy the claims of creditors; and
- f* prosecutor shall apply to declare the debtor bankrupt if:
 - he or she has discovered signs of premeditated bankruptcy; or
 - in the interest of the creditor, which is the Republic of Kazakhstan or state authorities.

To initiate rehabilitation or restructuring proceedings, a debtor may apply in case of its temporary insolvency, that is, if at least one of the following applies:

- a* obligations to creditors for claims for compensation for harm to life and health, recovery of alimony, obligations to pay wages, compensation under employment contracts, debts on social contributions to the State Social Insurance Fund, mandatory pension contributions and mandatory professional pension contributions, deductions and contributions for compulsory social health insurance, as well as remuneration to authors for an employee invention, utility model and industrial design are not carried out within three months from the date due; and
- b* obligations to other creditors are not performed within four months from the date due.

The only case in which the debtor may obtain a stay of bankruptcy proceeding is if after a creditor's initiation of bankruptcy proceeding, the debtor applies to the court to initiate rehabilitation proceeding and the creditor consents to it. Other concerned parties are not entitled to oppose or obtain a stay of insolvency proceedings.

Termination of bankruptcy proceedings with refusal to declare the debtor bankrupt shall take place if one of the following documents is declared by the temporary manager:

- a* conclusion that the debtor is financially stable;
- b* the impracticality of preparing such a conclusion as the debtor has only one creditor; or
- c* the impossibility of preparing such a conclusion as the debtor did not provide access to its documentation of records.

Creditors' meeting and creditors' committee

Creditors' interests in insolvency proceedings shall be represented by a creditors' meeting. It shall consist of all creditors whose claims are included in the register of claims as of the date of the meeting of the creditors' meeting. Usually a creditors' meeting takes decisions by majority vote on the principle of 'one tenge of claim – one vote'. Creditors affiliated to the debtor are not entitled to vote until claims of all other creditors are fully satisfied.

The creditors' committee shall be drawn up by the creditors' meeting. It shall consist of at least three members, out of at least one creditor of each group of homogenous creditors. The quorum of the creditors' committee is two-thirds of the total number of its members. The creditors' committee takes decisions by majority vote on the principle of one member – one vote.

Decisions of the creditors' meeting by the creditors' committee can be challenged by participants of the proceedings within one month after the date of the relevant decision.

Claw-back of debtor's transactions in insolvency

A transaction concluded by a debtor can be clawed back upon its insolvency, provided that such transaction was concluded within three years (or six months for some cases set out below) prior to the relevant court decision and provided that there is at least one of the following grounds:

- a* general grounds of invalidation of the transaction provided by the Civil Code (such as breach of law and fraud);
- b* the transaction was concluded beyond activities of the debtor limited by Kazakhstani laws, constitutional documents or in breach of competence set out by the charter;
- c* the property has been transferred (including for temporary use) for free or at a price that essentially differs, to the detriment of the debtor, from the price for identical or homogeneous goods under comparable economic conditions or without valid reasons to the detriment of the creditors' interests;
- d* if the transaction is completed within six months prior to the initiation of a rehabilitation or bankruptcy proceedings and entailed the preferable satisfaction of claims of one creditor before the others;
- e* the agreement on gifting debtor's property essentially differs from one that has been executed one year prior to the initiation of a rehabilitation or bankruptcy proceedings; and
- f* the transaction has been performed without the intention to create the relevant legal consequences, to the detriment of the creditors' interests.

If it is impossible to reimburse the value of the property by the original acquirer, the person who made the decision to alienate the debtor's property shall be brought to subsidiary liability in court.

Restructuring

In respect of the debtor's filing an application to the court to restructure its indebtedness, the court shall take a decision on its initiation within 10 business days. The court shall refuse to initiate the restructuring proceedings if:

- a* the debtor did not provide documents evidencing its temporary insolvency;
- b* there are initiated rehabilitation or bankruptcy proceedings;
- c* one year has not expired from the date of entering into force of a court's conclusion on refusal to approve the agreement on restructuring of indebtedness (the restructuring agreement); or
- d* one year has not expired from the date set to enter into the restructuring agreement if it was not entered into.

The debtor shall promptly notify the authorised body and creditors about the court decision. The authorised body shall publish on its website the information about application of the restructuring proceedings within two business days after receipt of the notification.

The restructuring agreement shall be executed between the debtor and all its creditors within two months after entry into force of the court decision on application of the restructuring proceeding. The restructuring agreement shall provide for the terms and conditions of the agreement, manner, ways and timing to satisfy the creditors' claim within three years.

Rehabilitation and bankruptcy

If filing an application to the court to initiate rehabilitation or bankruptcy proceeding, the court shall take a ruling on its initiation within up to five business days. The ruling shall contain the obligation of state bodies to put restrictions on the debtor's assets. The court shall send copies of the ruling to the debtor, applicant, authorised body, competent state bodies, regional chamber of private court bailiffs and territorial justice body. The temporary manager shall send a notification on initiation of rehabilitation proceedings to the authorised body within two business days after the initiation of the case. The authorised body shall publish a notification of initiation of rehabilitation proceedings on its website within two business days after receipt of the notification. The court shall publish the announcement of the initiation of the rehabilitation proceedings within five business days in periodicals distributed throughout the territory of Kazakhstan and the corresponding administrative-territorial unit at the location of the debtor, including on the website of the court.

Consequences of initiating insolvency proceedings

The consequences of initiating insolvency proceedings differ depending on the type and stage of insolvency. Generally the consequences are as follows:

- a* the debtor's owner, participants and management bodies shall be prohibited from using and selling the debtor's assets outside ordinary commercial operations;
- b* in the execution of previous decisions of courts, arbitral awards shall be suspended, except for payments to persons to whom the debtor is liable for damage to life or health without taking into account claims for moral damage;
- c* the accrual of penalties (penalties, fines) for all types of the debtor's debts shall be suspended;
- d* any claims of creditors against the debtor shall only be brought within the insolvency proceedings, except for claims for execution of guarantees and sureties by third parties and enforcement of pledge in cases where the pledgor is a third party;
- e* recovery of money from the debtor's bank accounts under the creditors' claims, state revenue authorities and other competent authorities engaged in the calculation and collection of obligatory payments to the budget, including the claims to be satisfied by an uncontested (acceptance-free) procedure, as well as foreclosure of the debtor's property shall not be allowed; and
- f* alienation of shares or participatory interests in the debtor's charter capital shall be prohibited.

Submission of claims

In regards to rehabilitation and bankruptcy, the creditors' claims against the debtor shall be declared within one month from the date of publication of the announcement on the procedure for filing claims by creditors. Creditors' claims shall contain:

- a* information on the amount of the claim (separately on the amount of the principal debt, remuneration (interest), forfeit and other penalties, and losses); and
- b* an indication of one of the methods of notification of the creditors' meeting provided for by the Bankruptcy Law.

Claims shall be included in the register of claims within 10 days. On the next business day after the date of the decision, a temporary administrator shall notify the creditor in writing whether its claim was included in the register. In the case of a disagreement, the creditor may appeal it to the court within 10 business days of the date of receipt of the notification.

Within two months the temporary administrator shall draw up and submit to the authorised body the register of claims and the list of creditors whose claims were not accepted. The authorised body shall publish it on its website within two business days.

The following claims shall not be included in the register of claims:

- a* claims of creditors on project financing and securitisation, secured by allocated assets, and claims of holders of mortgage bonds, secured by a pledge of the following property: rights of claim under mortgage housing loan agreements (including pledge of mortgage certificates), as well as government securities of the Republic Kazakhstan in cases where the ownership of the said bonds arose from their holders or passed to them under transactions or other grounds provided for by the Kazakhstani laws;
- b* claims of creditors on infrastructure bonds secured by state guarantees;
- c* claims of the debtor's founders (participants), except for their claims for remuneration, payment of compensation under employment contracts, obligations for social contributions to the State Social Insurance Fund, mandatory pension contributions and mandatory professional pension contributions, for deductions and contributions to compulsory social health insurance; and
- d* claims of secured creditors repaid as a result of foreclosure on the pledged property if the pledgor is a third party.

Application of rehabilitation proceedings

A rehabilitation procedure shall apply if the debtor has the possibility of restoring financial stability, subject to the creditors' meeting's consent. The debtor has three months to develop the rehabilitation plan and agree it with the creditors. The rehabilitation plan shall contain specific measures on restoration of the debtor's solvency (rehabilitation measures) and a schedule for satisfying creditors' claims. The term for its implementation shall not exceed five years. According to the request of the rehabilitation manager, subject to the creditors' meeting's consent, the court may extend this period once, but not for more than six months.

Declaring the debtor bankrupt

If a temporary manager recognises the debtor as financially unstable, the debtor shall be declared bankrupt. The temporary manager shall notify the authorised body of the same within two business days. Within a further two business days the authorised body shall publish it on its website.

Bankruptcy proceedings shall take nine months and can be extended to up to five years in one of the following cases:

- a* the existence of a case in court proceedings affecting the property interests of the debtor and its creditors;
- b* the existence of unsold property;
- c* the need to eliminate violations of the Kazakhstani legislation, specified in the court ruling on refusal to approve the final report; or
- d* the need to eliminate violations of the Kazakhstani legislation identified by the authorised body.

Property mass

The property mass shall include:

- a* the debtor's property, including rights of claim (receivables);
- b* the debtor's rights of permanent and long-term temporary land use; and
- c* the personal property of an individual bankrupt entrepreneur, the property of participants in a general partnership, limited partnership, partnership with additional liability, as well as members of a production cooperative, which, in case of insufficient property of a bankrupt individual, may be levied (to be taken into account separately).

The property mass shall not include:

- a* material assets of the state material reserve;
- b* allocated assets:
 - collateral for the obligations of a special financial company if project financing;
 - collateral for bonds of a special financial company if securitisation; and
 - pledged property, which is the following collateral for mortgage bonds: receivables under mortgage loan agreements (including mortgage certificates) and Kazakhstani government securities;
- c* property sold to the state Islamic special financial company based on the decision of the Kazakhstani Government;
- d* liquidation funds created in accordance with the legislation on subsoil and subsoil use;
- e* property included in the public-private partnership facility;
- f* bank deposit of the operator of a Category I facility, which is a financial security for claims on obligations related to the elimination of the consequences of certain activities, as well as units of emission reduction quotas, certified emission reductions, internal reduction of emissions and absorption of greenhouse gases, provided for by the Environmental Code;
- g* pledged property in the event of its transfer to a secured creditor;
- h* rights of temporary gratuitous and temporary short-term paid land use (lease);
- i* financial instruments of a client (clearing participant) of a clearing organisation that are full or partial collateral for obligations under transactions, margin contributions and contributions to clearing (guarantee or reserve) funds provided by the Kazakhstani legislation on the securities market;
- j* voting shares (stakes in the charter capital) of a legal entity carrying out activities to ensure shared construction of a residential building (residential building); and
- k* the object of leasing, except for when the creditors' meeting makes a decision on its early redemption.

Satisfaction of claims

Claims of the creditors of the subsequent line shall be satisfied after full satisfaction of claims of the creditors of the preceding line.

Claims of creditors that are not satisfied due to the lack of the bankrupt's property shall be considered to be satisfied. The money and property remaining after the satisfaction of claims of all creditors shall be passed to the owners of the property, who are founders (participants) of the bankrupt.

Administrative and court costs are to be reimbursed first. Administrative costs include:

- a* basic remuneration of managers;
- b* costs of paying for the services of involved specialists;

- c* remuneration for persons working under an employment contract, the obligation to pay, which arose from the date of, and the period following, the initiation of bankruptcy proceedings; and
- d* taxes and other obligatory payments to the budget for the tax periods following the tax period in which the court decision has been given, declaring the debtor bankrupt and its liquidation with the initiation of bankruptcy proceedings.

The other claims shall be satisfied in the following order:

- a* claims for compensation for harm to life or health; alimony; remuneration and compensation to persons who worked under an employment contract at the rate of not more than the average monthly salary for 12 calendar months, with the payment of debts on social contributions to the State Social Insurance Fund, mandatory pension contributions, mandatory professional pension contributions, deductions and contributions to compulsory social health insurance; remuneration to authors for service inventions, utility models and industrial designs;
- b* claims of creditors for obligations secured by a Kazakhani law governed pledge of the bankrupt's property; claims resulting from the loans of the bankruptcy manager during the bankruptcy procedure; and claims of a clearing organisation performing the functions of a central counterparty that arose as a result of transactions of a bankrupt clearing member of this clearing organisation, with the participation of a central counterparty;
- c* tax debt, and debt on customs payments, special, anti-dumping, countervailing duties and interest;
- d* settlements with other creditors for civil law and other obligations, and satisfaction of creditors' claims that have arisen:
 - due to insufficient value of the pledged property to fully satisfy claims of the secured creditor;
 - from copyright agreements that were not included in the first line; and
 - as a result of a court invalidation of a transaction and return of the property to the bankrupt;
- e* claims of creditors for damages and recovery of penalties (fines and penalties), and claims for remuneration and payment of compensation that were not included in the first line; and
- f* claims of creditors filed later than the deadline.

Amicable agreement

At any stage of the bankruptcy procedure, debtor and creditors may enter into an 'amicable agreement', which shall be approved by a court after satisfaction of claims of the first line creditors. An amicable agreement may be concluded on the terms:

- a* deferrals and instalment plans for the fulfillment of the obligations of a bankrupt company;
- b* assignment of the bankrupt company's claims;
- c* performance of the bankrupt company's obligations by third parties;
- d* transfer of debt;
- e* exchange of creditors' claims for shares of a bankrupt company, participatory interest in the charter capital; and

f satisfaction of creditors' claims in other ways that do not contradict the Kazakhstani legislation.

The agreement shall contain information on the amount, procedure and timing for fulfilling the obligations of the bankrupt company and termination of its obligations.

An amicable agreement may be terminated by a court decision in respect of all creditors at the request of the creditors who, as of the date of filing the application, own at least 25 per cent of the total amount of claims included in the register of creditors' claims, and in the case of non-fulfillment debtors and third parties of the terms of the amicable agreement in respect of such creditors.

v Control of insolvency proceedings

Insolvency proceedings are mostly controlled by courts, debtor's management bodies and temporary managers.

Cases related to bankruptcy, rehabilitation and restructuring are considered by specialised interdistrict economic courts. The case shall be considered within two months after the date of its initiation. Cases are not subject to consideration *in absentia*.

All main steps within insolvency proceedings require court involvement. It accepts applications on initiation of insolvency proceedings, initiates insolvency proceedings, approves settlement agreements and declares debtors bankrupt, among other things.

Debtor's management bodies may take a decision to declare the debtor bankrupt. Depending on the insolvency proceeding, they may not manage the debtor if:

- a* restructuring: debtor's management bodies shall continue performing their functions and manage the restructuring as well as their ordinary business;
- b* rehabilitation: until a rehabilitation plan is approved, a temporary manager shall manage the restructuring, and once the rehabilitation plan is approved, either debtor's management bodies or a rehabilitation manager shall manage the restructuring depending on the decision of the creditors' meeting; and
- c* bankruptcy: until a bankruptcy manager is appointed by the authorised body, a temporary manager shall manage the bankruptcy, and once the bankruptcy manager is appointed by the authorised body, a bankruptcy manager shall manage the bankruptcy.

vi Special regimes

The following entities are subject to specific regulation of insolvency proceedings out of scope of the Bankruptcy Law:

- a* banks – the Law of the Republic of Kazakhstan 'On Banks and Banking Activities in the Republic of Kazakhstan' No. 2444 dated 31 August 1995;
- b* insurance companies – the Law of the Republic of Kazakhstan 'On Insurance Activities' No. 126 dated 18 December 2000;
- c* accumulative pension funds – the Law of the Republic of Kazakhstan 'On Pension Provision in the Republic of Kazakhstan' No. 105-V dated 21 June 2013;
- d* cotton processing organisations – the Law of the Republic of Kazakhstan 'On the Development of the Cotton Industry' No. 298-III dated 21 July 2007;
- e* grain receiving enterprises – the Law of the Republic of Kazakhstan 'On Grain' No. 143-II dated 19 January 2001;
- f* natural monopoly entities – the Law of the Republic of Kazakhstan 'On Natural Monopolies' No. 204-VI dated 27 December 2018;

- g* entities of great strategic importance for the economy of the Republic of Kazakhstan, capable of influencing the life, health of citizens, national security or the environment, including organisations whose shares are classified as strategic objects – specific governmental decrees; and
- b* state enterprises cannot be subject to insolvency proceedings.

vii Cross-border issues

Kazakhstani legislation does not envisage parallel insolvency proceedings in foreign countries. Local companies shall apply for insolvency only in Kazakhstan; and vice versa, foreign companies are not entitled to apply for insolvency in Kazakhstan.

Foreign creditors are subject to the same regulation as local creditors.

II INSOLVENCY METRICS

There are no fully indexed, reliable or comprehensive databases or other sources publicly available in Kazakhstan to:

- a* confirm the status of any court decisions or orders for any bankruptcy, insolvency or similar proceedings in relation to local legal entities, nor for the appointment of any administrator, liquidator or similar legal representative with respect to local legal entities or their property or other assets;
- b* research past judicial decisions with respect to any identified subject matter; and
- c* research the enforcement practice of the Kazakhstan authorities with respect to any identified subject matter.

According to available information, normally annually approximately 1,000 to 1,500 entities initiate insolvency proceedings in the Republic of Kazakhstan. In 70 per cent of cases, this happens due to the debts to the tax authorities (however these debts do not always arise justifiably). From March 2020 to September 2021 due to the covid-19 pandemic and associated restrictions, 35,000 businesses had to close due to insolvency.

Around 800 companies were declared bankrupt in January to September 2021 compared with around 600 companies that were declared bankrupt in January to December 2020. Prevailing numbers of bankrupt companies in 2021 were in the field of wholesale and retail trade, car and motorcycle repair (approximately 30 per cent) and construction (approximately 25 per cent). These figures do not include entities that were subject to other insolvency proceedings such as restructuring or rehabilitation.

Notably, due to the pandemic, in May to October 2020 and in March to July 2021, there was a moratorium in place that prevented state bodies and quasi-state legal entities from filing applications to declare their counterparties bankrupt. Although this moratorium did not apply to other creditors (e.g., privately-owned legal entities), in 2021, courts broadly interpreted the moratorium and, in most cases, did not accept applications for insolvency proceedings irrespective of the applicant.

III PLENARY INSOLVENCY PROCEEDINGS

Insolvency proceedings are normally not widely publicised. There have been no high-profile insolvency cases in the past 12 years in Kazakhstan. Instead, some information can be obtained from the database of court cases. Recent court practice shows the following:

- a* most applications on invalidation of transactions executed by a debtor were submitted by bankruptcy managers;
- b* one of the grounds to claw back the debtor's transactions was the general ground of Article 7.2 and Article 158.4 of the Kazakh Civil Code; that is, transactions made at a price that does not meet the interests of a debtor. According to the court ruling dated 22 June 2022 No. 2a-6142/2022, on the request of a bankruptcy manager, the sale of two cars was invalidated. The background is as follows: the sale was made two years prior to the bankruptcy of a debtor at residual price, including depreciation. Although the debtor claimed that sale was made in compliance with accounting requirements of price calculation, the court stated:
- the acquirer knew about the debtor's tax debt; and
 - given the tax debt, the debtor should not have sold its property at a price that does not meet its interests; and
- c* to claw back the debtor's transaction, some kind of wrongdoing is required; that is, transactions executed with a bona fide commercial purpose and on arm's-length terms should not be affected by insolvency. According to the court ruling dated 1 July 2022 No. 6399-22-00-2a/697, the court rejected the bankruptcy manager's request for invalidation of the transaction in the absence of wrongdoing. The background was as follows: the debtor entered into the exchange transaction two years prior to its bankruptcy. Although the bankruptcy manager claimed that the exchange infringed upon the creditors' interests in terms of satisfaction of claims, the court was not provided with evidence of the same.

IV ANCILLARY INSOLVENCY PROCEEDINGS

As stated above, Kazakhstani legislation does not provide for insolvency proceedings for foreign-registered companies in Kazakhstan. Therefore, there is no specific regulation of ancillary insolvency proceedings in Kazakhstan.

V TRENDS

On the one hand, at the beginning of 2022, the economy of Kazakhstan showed a growth of 4.6 per cent, with positive growth in trade, construction, transport and warehousing, information and communication, manufacturing, mining, water supply and agriculture. The growth rate of investments in fixed assets amounted to 2.5 per cent. Investments grew in education by 72 per cent, public administration and social security by 55 per cent, scientific and technical activities by 36 per cent, healthcare by 28 per cent, real estate transactions by 20.4 per cent, trade by 14 per cent, and construction by 10.7 per cent. The service sector is steadily expanding due to positive dynamics in transport and warehousing, trade, information and communications. The economy received additional support from agriculture and construction. Export of goods increased by 65.8 per cent.

On the other hand, the events of the past few years (e.g., declining oil prices, rising gas prices, the covid-19 pandemic, unrest in Kazakhstan in January, war in Ukraine and related sanctions, exchange rate volatility and logistics issues) play an inevitable role in the state of the economy of Kazakhstan as a whole and for local companies in particular. Global uncertainty remains at a high level. Against the backdrop of a tense geopolitical situation, forecasts for global economic growth are following a downward trend. As of 1 January 2022,

the amount of distressed assets is 2.3 trillion tenge, or 6 per cent of the assets of the banking system. Distressed assets, in addition to loans overdue by more than 90 days (870 billion tenge), include restructured loans (936 billion tenge), recovered property (156 billion tenge) and assets of banks' subsidiaries for managing distressed assets (356 billion tenge). In these circumstances, more companies (especially small and medium-sized businesses) face the risk of insolvency.

In regards to expected legislative developments, one of the major amendments is the introduction of the concept of the insolvency of private individuals. The need to develop this concept was identified back in 2014. In January 2022, the President of Kazakhstan instructed the introduction and approval of a law on the insolvency of private individuals. The debt load of the population has become a social problem. As of 1 January 2018, the individual loan portfolio amounted to 4.3 trillion tenge compared with 9.8 trillion tenge as of 1 December 2021, a year in which more than one million citizens had overdue loans. The main intention will be to improve the financial situation of citizens.

In respect of the insolvency of legal entities, the Kazakhstani government plans to simplify insolvency proceedings to accelerate the exit of insolvent companies from the market with the change of inefficient owners. No specific amendments have yet been announced.

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