

# THE LEGAL IMPLICATIONS OF THE JUDGMENT DECLARING INSOLVENCY IN ACCORDANCE WITH THE JORDANIAN INSOLVENCY LAW NO. 21 OF 2018.”

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## ABSTRACT

*This study dealt with the effects of the month of insolvency, which limits the debtor's freedom to manage and dispose of his money. The researchers used the descriptive approach by presenting the legal texts that dealt with the subject of the study and the analytical approach by analyzing the legal texts contained in the insolvency law to show the effects of the ruling on the month of insolvency. This study has reached several conclusions, the most important of which is that the new insolvency law abolished the effects that affect the debtor on his person, such as confiscating his freedom and imposing residence on him, taking away his political rights, his right to occupy public office, and membership of councils, and the effects related to the debtor were limited to those that limit From his freedom to manage his money and dispose of it, and this study reached several recommendations, the most important of which is dealing with the impact of work contracts, and dealing with the impact on the owners of secured debts, in a way that leaves no room for doubt about the mechanism of their receipt of their debts from the guarantees when selling them.*

**Keywords :** Insolvency, Effects, Employment Contracts, Debtor, Insolvency Agent, Debt

## INTRODUCTION

In the Insolvency Law No. 21 of 2018, the legislator explained the effects of declaring insolvency in Chapter Three, and regulated the provisions in Act (17-35). Insolvency is not declared except by a ruling from the Court of First Instance, which has within its jurisdiction the center of the main interests of the debtor, i.e. the place where the debtor manages his economic activity.

Accordingly, the legislator has limited in the aforementioned law the right to file an insolvency declaration to the debtor, the creditor, and the company's controller. And in contrast to what was the case in the application for declaring bankruptcy in accordance with the provisions of the Trade Act, which granted the right to file a bankruptcy application to the creditors, the debtor, the court and the prosecution, if a lawsuit related to the debtor was submitted to them. While the legislator in the insolvency law has inventoried the court of its right to declare insolvency, and at the same time, the new law has given priority when there is more than one request to declare insolvency to the request submitted by the debtor, and there is no doubt that the legal status of the debtor differs radically if s/he submits a declaration request his insolvency, that is, the effects of insolvency declaration vary between insolvency declared at the request of the debtor, and notarized at the request of creditors or the controller, as we will discuss in the next of this research.

Therefore, the legislator realized the importance of regulating insolvency provisions by an individual private law, and this is the case for most of the comparative legislation that adopts the free economy system, as it is carried out according to this approach, and since keeping pace with the developments and changes of life is one of the features of modern legislation, this was a

reason and a motive for our Jordanian legislature. To single out insolvency provisions under a special law.

The problem of the study lies in what are the effects of a judgment declaring insolvency, and the extent to which the Jordanian legislator balances between the interests of the creditor and the debtor in the event of insolvency.

What is the impact if the debtor himself submits an application for declaring his insolvency? What is the purpose of the creditors in requesting the insolvency of the debtor? What if a creditor wanted to claim his money from the insolvent debtor and decided to file a lawsuit against him before the court? Will this case be heard by the judiciary after the issuance of the ruling to declare the insolvent debtor? Or are there exceptions that the legislator has mentioned in the text of the provisions of the insolvency law? These and other questions will be the focus of our study.

The study aims, by answering the foregoing, to show the effects of the insolvency ruling, and it also aims to be of interest to researchers and those interested.

Accordingly, our vision was to divide this research into two topics, as follows:

### **The First Topic**

The legal implications of the insolvency declaration ruling for the two parties to the contractual bond

Through this topic, we will explain the effects of the insolvency ruling for the two parties to the contractual relationship, the debtor and creditors, and to shed light on the most prominent provisions regulated by the legislator in the insolvency law in this regard. Based on the foregoing, we have decided to divide this study into two main requirements, as follows:

First requirement: Effects of insolvency to the debtor.

The second requirement: Effects of insolvency to the group of creditors.

### **The First Requirement**

Effects of insolvency to the debtor

Through this requirement, we will deal with the implications of the right to manage the debtor's funds, the effects of insolvency on lawsuits. And that in the framework of two successive subcategories.

#### **First Branch**

Implications for the right to manage the debtor's funds

In the new insolvency law, the Jordanian legislator ended the abolition of the effects that affect the debtor from: confiscating the debtor's freedom, imposing residence, deprive from political rights, the right to occupy public office, and membership of councils. And the effects related to the debtor were limited to those that limit his/her freedom to manage and dispose of his/her money, the legislator differentiated between the position of the debtor who submitted the application for publicity from the position of the debtor whose insolvency was requested by the creditors, in the matter of managing his/her funds. Based on the foregoing, we shall divide this issue into two parts, as follows:

First: Effects of the insolvency ruling on the management of the debtor's funds in the event of his request for insolvency

The legislator granted the insolvent debtor requesting declaration of insolvency preference in the legal position, as s/he retained the right to manage his usual funds under the supervision of the insolvency agent. Thus, the debtor in this case has the right to pursue judicial procedures in the cases brought by the debtor and heard before the courts, whether s/he is a plaintiff or a defendant, and this right is subject to the following restrictions:

First constraint: The debtor is prohibited from voluntarily dropping the lawsuits (that is, upon his/her request unless s/he obtains approval for this from the insolvency agent).

The second constraint: The debtor is prohibited from acknowledging the lawsuit, or approving the outcome of the lawsuits, unless s/he obtains approval for that from the insolvency agent.

There is no doubt that these restrictions aim to create control over the debtor, who still enjoys the right to manage his/her funds, and despite all these restrictions, s/he has the right to appoint a lawyer to preserve his/her rights, but the authority granted to the debtor to act and manage in this case, remains subject to endowment upon the creditors request, if they submit justifications to the court that keeping the authority of management in the hands of the debtor does not serve the interest of the economic activity, and if the court is satisfied with the justifications and issues its decision to suspend the authority granted to the debtor, the insolvency agent replaces the debtor in management and disposal, as well as in cases whether the debtor is a plaintiff or a defendant. (Mahmoud, 2017)

Second: Effects of the insolvency ruling on the management of the debtor's funds in the event that the insolvency application is from a third party

Creditors or the controller may apply for insolvency, and the legislator has arranged various effects on the management of the debtor's funds, as declaring insolvency at the request of the creditors would stop the debtor from managing his money, by suspending the debtor's authority to manage and dispose of insolvency funds.

It is known that the funds of the insolvency owed consist of the funds and the material and moral rights belonging to the debtor on or after the date of declaring the insolvency, without including the funds and rights belonging to the natural person, which are excluded from seizure under the provisions of this law, and are also excluded under Act 29 of the Execution Law, and the Law of Fundamentals Civil trials under Act 142, so that the management of the debtor's funds falls under the control of the insolvency agent, within the limits of the normal conduct of business, and as regulated by the insolvency law in the power of the insolvency agent. (Taha, 2018)

## **Second Branch**

### Effects of insolvency on lawsuits

The legislator arranged effects on the lawsuits filed by the debtor or third parties against the debtor due to the insolvency ruling and made provisions on implementation. We will deal with this issue according to the following division:

#### **First: Effects Related to Lawsuits**

Under Act 21 of the Insolvency Law, the legislator dealt with the effect of insolvency in terms of lawsuits, as this article stipulated that: No lawsuit will be heard against the debtor after declaring the insolvency, and any person who claims the existence of a debt the insolvent debtor must register his/her claim in accordance with the procedures followed in this law. Thus, any plaintiff must review the insolvency agent, and include his/her claim, and s/he is prohibited from reviewing the courts and registering claims. The rule for filing lawsuits is that the lawsuit is rejected, but in fact there are two exceptions:

First exception: With regard to existing and pending cases before the declaration of insolvency:

Where the aforementioned article stipulates that the courts will continue their consideration until judgments are issued, while granting the insolvency agent the right to request the court to refer any lawsuit considered by the courts, whether the debtor is a plaintiff or a defendant, to the insolvency court if two basic criteria are met:

- 1) If the lawsuit substantially affects the conduct of the insolvency proceedings. It is taken into account that this issue is discretionary and permissive, subject to the criterion of the extent of the effect of the lawsuit, whether it is essential or not.
- 2) If the value of the lawsuit exceeds 20% of the total debts of the insolvent debtor, in this case, there is no room for assessment if the request was made by the insolvency agent.

Second exception: Courts and arbitral tribunals continue to hear cases against the debtor until a judgment is issued; because the declaration of insolvency does not affect the arbitration and mediation agreements to which the debtor is a party, while giving the court the right to suspend the validity of these agreements as well, so that the arbitration agreements remain in force.

Secondly: Effects related to implementation (executive lawsuits):

Under Act 22 of the Insolvency Law states that: It is not permissible to execute the debtor's funds after the notification of the insolvency, and the execution procedures that started before the declaration of the insolvency shall be suspended. The aforementioned article necessitated the judgment creditor to register his/her claim in accordance with the insolvency procedures, so that the insolvency agent is obligated to automatically include the debt in the list of creditors. That is, without going through the stage of debt realization, while the insolvency agent's right to appeal remains in place, if the appeal of the judgment required to be executed has a legal requirement whether they are executive or before the court of course, are suspended, and this includes all ordinary debts Treasury debts. The legislator has restricted this stay with a period of six months from the date of declaring the insolvency or until the approval of the reorganization plan. Provided that secured debt holders (mortgages and liens) are excluded from this prohibition, so that they continue to implement the guarantees according to two basic restrictions:

That they hand over the proceeds of the sale to the insolvency agent, to be distributed, and this is an organizational matter that does not affect their legal positions and privileges. Here the following question arises, about when the insolvency agent distributes the proceeds of execution on the guarantees to the secured debt holders? Is it waiting until the insolvency proceedings are completed?

Under Act 39 of the Insolvency Law defines the secured creditor as: Every creditor has an enforceable subordination right against third parties over the debtor's funds that fall under the liability of insolvency, and this includes mortgaging movable and immovable funds and any other type of in-kind guarantees in accordance with the legislation in force. It is clear from this definition that the owners of real estate mortgages, and mortgages on movables that are effective against others, are formally registered in their documented records, and the owners of concession rights, whose rights are considered secured debts, and they are part of the creditors body and are represented by a member of the creditors committee.

By reviewing all the provisions that dealt with the functions of the insolvency agent, we find that one of his tasks is to document debts and indicate their rank, prepare a report and deposit it with the court, and a list of debts and their owners...etc. Debts secured by in-kind insurance are also included in the list of creditors in accordance with the provisions of Act 63 of the Insolvency Law, and the debts are paid after the completion of the liquidation procedure. And based on the provisions of Act 107, we find that secured debts are initially collected, which infers that even if the secured debt holders are allowed to continue implementing the guarantees assigned to them, they are obliged to do two important things:

- 1) Handing over the proceeds to the insolvency agent.

- 2) Waiting until the liquidation procedures are completed, and this result is diligence through extrapolating the texts.

That the guarantees do not affect the continuation of economic activity, as if they were plots of land or apartments, but if it was the land of the factory or machinery, the insolvency agent may request a stay of execution, because one of the most important objectives of the new insolvency law, is Continuing economic activity and avoiding liquidation as much as possible because of its negative effects on the economy and society.

## The Second Topic

The legal implications of the insolvency declaration ruling on contracts and legal actions issued by the insolvent debtor.

According to the provisions of the Trade Law related to bankruptcy, the creditors used to join in a group called the creditors' group or the group of creditors, and this group is subject to the provisions of the law in terms of presenting their debts to the bankruptcy agent, up to the powers of voting to accept the composition and others. As for the insolvency law, any of these issues no longer exist in the form in which they were, so that the new law classified creditors according to their debts into four categories: creditors with debts secured by in-kind security, creditors with preferred debts, creditors with unsecured debts in kind, and creditors lower in priority. (Mahmoud, 2017)

The creditors were organized into two authorities: a general authority consisting of insolvency creditors, and a creditors committee consisting of no less than three and no more than five and it exercises the powers granted to it under the provisions of the law in Chapter Four of it, and the insolvency law has arranged the following effects in the face of creditors :

لـ Suspension of calculating interest and delay penalties on creditors' debts from the date of declaring the insolvency, with the exception of the interest payable on workers' wages, which is calculated on the basis of the rate of the highest interest rate paid by banks on deposits, at the rate of the day of the insolvency declaration.

بـ Stopping the passage of time that prevents hearing cases to claim the rights of creditors, and this suspension is limited in scope to the insolvent debtor, without including his partners in the debt such as the guarantors and those who are with him.

تـ The declaration of insolvency does not prevent the possibility of a set-off and the debts owed by the debtor against the debts owed to him/her.

By reviewing these main effects, we found that they are the same effects of the bankruptcy ruling, with some differences that we have referred to. In this study, we will try to divide it into two sections that deal with this topic in detail, as follows:

The first requirement: Effects of a judgment declaring insolvency on contracts issued by the debtor

The right of imprisonment and the right of rescission of reciprocal contracts and the right of recovery are among the rights granted to contracting parties in accordance with the provisions of the Civil Law, and they are among the general rules. These provisions have been applied to bankruptcy cases, in accordance with the Commercial Law. As for the insolvency law, the legislator singled out special and different provisions, and in order to that, we have decided to divide this requirement into five successive branches, which serve us in clarifying the effects of the bankruptcy ruling on the contracts issued by the debtor, as follows:

### First branch: Ongoing Contracts

The ongoing contracts according to the insolvency law are the contracts that entail reciprocal obligations on both parties to the contract at the same time, and continue to be

executed beyond the date of the insolvency declaration. That is, there is a valid contract between the two parties, which arranges obligations that are falter until after the declaration of insolvency, as in contracts for the supply of goods on a periodic basis, or a contract to build a commercial complex that lasts for two years. (Khalil, 2015)

#### The Law Defines the following rules for current contracts

- a) The insolvency agent and the debtor, under the supervision of the insolvency agent, may continue to implement the contract and request the other party to the contract to continue implementation (the right to continue execution).
- b) The other contracting party may request the insolvency agent or the debtor, to determine his position on the contract, by expressing his desire to implement the contract within five days of being notified of the request, under penalty of losing his right to request execution. (the right to disclose the position on the implementation), and from our side we believe that this ruling is taken into account, that it did not specify the method of notifying the debtor of the request for execution. It also includes a specific period, compared to the filing of the protest for non-acceptance or non-payment of commercial papers (Taha, 2018).

The insolvency agent or the debtor, under the supervision of the insolvency agent, may request the termination of the current contract if this achieves an interest that serves the insolvency procedures, and in this case, the right of the two parties to the contract to implement the remaining obligations shall forfeit, and the injured party may claim compensation according to:

- 1) The compensation claim must be consistent with the terms of the contract (the penalty clause, if any, shall be taken into account).
- 2) The result of the claim for compensation should be an ordinary debt owed by insolvency.

The above-mentioned controls shall be taken into account, regardless of the existence of any condition stipulating that the contract shall be considered rescinded, as such conditions are considered void.

#### **Second Branch: The Contract of Sale**

The legislator subjected the contract of sale to the provision of Act 29 by stipulating a general rule represented in granting the debtor or insolvency agent the right to request the termination of the sales contract that he concluded before declaring the insolvency, provided that the sale has not been delivered, or has not been The debtor has paid the price.

This form of annulment is considered a form of annulment by virtue of the law, and this constitutes the main rule for sales contracts, and another rule is attached to it, which is to grant the seller who did not receive the price the right to imprison the goods with him until the debtor pays the price, and this rule devote the rules of the right of imprisonment . As for the exception that included a deviation from the general rules, it was stipulated in paragraph (c) of Act29 of the Insolvency Law to confiscate the seller's right to imprisonment if he had received part of the price.

#### **Third Branch: Lease Contract**

The provisions of bankruptcy in the Trade Law did not pay attention to the lease of the store, while attention was paid to the issue of continuing the trade activity of the bankrupt debtor, if it achieves the interest of the group of creditors according to controls and conditions. Insolvency, and s/he singled out special provisions aimed at continuing to engage in economic

activity, to the extent of deviating from the provisions of the owners and tenants law. In general, the legislator differentiated between two types of lease contracts:

First: Lease contracts for movable and immovable property necessary for the continuation of the business or for the conduct of insolvency procedures and are subject to the following rules:

- 1) The lessor is not entitled to terminate the lease contract due to declaring insolvency.
- 2) The right to terminate the lease is granted to the debtor under the supervision of the insolvency agent, and to the insolvency agent, even before the expiry of its term, if this serves the interest of the insolvency.
- 3) The debtor shall bear the wages until the date of vacating the property, regardless of the remaining period in the contract.

In this type of contract, it is the responsibility of the insolvency agent or debtor under the supervision of the insolvency agent to inform the lessor of his desire, either to terminate the contract, or to continue its implementation for a specified period. The rent allowances due after insolvency, as a result of the continuation of debts in the face of insolvency procedures, are paid when due. As for the previous allowances, they are debts in the face of insolvency and are subject to the normal claim procedures, and are carried out by the lessor in accordance with the provisions of this law, which dealt with the impact of the insolvency judgment on the lawsuits and implementation in Act 22.

### **Second: Lease Contracts that are not Necessary for Practice Economic Activity**

As for the lease contracts that are not necessary for the debtor to carry out his economic activity, for the purposes of continuing the work and proceeding with the insolvency procedures, the legislator granted the lessor the right to terminate the contract unless he obtained sufficient guarantees to meet the rent allowance.

### **Fourth Branch: Work Contracts**

Under Act 31 of the Insolvency Law, the legislator has come up with two provisions that are difficult to reconcile, as the first paragraph of this Act stipulates that: Declaration of insolvency does not affect the applicable work contracts.” It is understood from this text that fixed-term employment contracts are valid until the end of their term, while indefinite contracts remain valid, while we find that the legislator, in the text of the second paragraph of the same article, granted the debtor and the insolvency agent The right to request the court to amend or terminate contracts, provided that the court listens to the workers’ opinion in this regard. In addition to the fact that the text is flawed, it includes at the same time many observations, as follows:

- 1) The text included the phrase (despite what is stated in any other law), meaning that what is stated in this text takes precedence over what is stated in the Labor Law.
- 2) The text did not give the court a role or authority, as the text came with the phrase (that the court decides to terminate or amend after hearing the opinion of the workers), and did not provide for the court's right to refuse.

Briefly, the validity of employment contracts or their termination is subject to a request by the debtor or the insolvency agent corroborated by the court, and the law does not provide for workers to be granted any urgent salaries as a privilege.

### **Fifth branch: Administrative contracts (licenses and privileges)**

Licenses and concessions, such as contracts for oil and gas exploration and renewable energy contracts, which are governed by the General Electricity Law, are considered administrative contracts. Administrative contracts, in general, are contracts to which the

government or one of its institutions is a party, and it relates to a service or management of a public utility. (Shahawi, 2010)

The insolvency law came with a special regulation for these contracts, as the legislator granted the contracting administration with the debtor the right to terminate the contract, the right of concession or the license, based on objective reasons to believe that there are risks related to the non-performance of the contract within a rule, and that is declaring insolvency alone does not It is a sufficient reason to terminate the contract, as long as the economic activity continues, and there is no doubt that this is a matter of fact and the court's discretion is independent of the facts and evidence, which may include disclosure, experience and other evidence. (Taha, 2018).

### **The Second Requirement**

Effects of a judgment declaring insolvency on the debtor's actions during the previous year

The provisions of bankruptcy in the Commercial Code specified a period called the period of suspicion, which is the period during which the legislator became suspicious of some of the debtor's actions, subjecting them to obligatory invalidity in specific cases, and legal invalidity in other cases.

The period of uncertainty extended to eighteen months prior to the bankruptcy ruling, within specific conditions. However, the legislator in the insolvency law has revolutionized the concept of the period of uncertainty, and in his view of the debtor's actions prior to the insolvency ruling. We will deal with these effects through two sections, where we have devoted the first section to dealing with the consequences of the debtor's actions, and in the second section we will deal with the claim of non-enforcement of the debtor's behavior. (Al-Sanhoury, 1968)

### **First Branch: Effects of the Debtor's Actions**

The legislator did not want the ruling on the debtor's actions to be invalid, but rather to make them ineffective. This means that it was established valid, but suspended for insolvency. The legislator has specified in the insolvency law rules that apply to the types of behavior, as follows:

- A. The period during which the legislator suspected the insolvency law of the debtor's actions is a year prior to the date of declaring the insolvency, and thus there is no longer any way for the period to be prolonged or shortened according to the date of the actual cessation, because the legislator has adopted the concept of imminent insolvency. (Shahawi, 2010)
- B. In the insolvency law, the legislator did not make the debtor's actions invalid, but rather made them ineffective. Thus, the legislator has adopted a claim regarding the non-enforcement of the act, the conditions and elements of which are known according to the law, taking into account specific controls for the non-enforcement of the disposal, which we list as follows:
  - First rule: If the disposal causes damage to the insolvency: In order for it to be considered incurred by insolvency, it must come in the form of the debtor entering into an act that achieves a much lower return than the allowance achieved for the other party.
  - Second rule: Unjustified preferential treatment, if the debtor performs an act that would put one of the creditors in a better position than other creditors in the insolvency proceedings.

It is the responsibility of the insolvency agent to prove the occurrence of the damage caused by the debtor, but the legislator has assumed that the damage occurred in specific actions without the need to prove that the damage occurred, meaning that the damage inevitably occurred due to the nature of these actions, which are as follows:



- 1) Gift and disposals without compensation, including all actions free of charge.
- 2) Payment of an unsecured obligation that is not due for performance.

As for the following actions, the legislator has granted the debtor the right to prove that they did not harm the insolvency, and they are:

#### Conclusion of actions for the benefit of related persons

Granting guarantees for a previous debt or a new debt that replaces a previous debt, if the previous debt is unsecured, or is secured by guarantees of less value than the guarantees granted. Paying a secured debt that is not due for payment before declaring the insolvency.

In order to determine the people related to the debtor, the provisions of Act 4 of the Insolvency Law shall be taken to include the spouse, relatives up to the fourth degree and an ally of the legal person .... etc. It is taken from the text that s/he did not single out a special provision for the wife, as was the rule of bankruptcy, but it stipulated that the marital bond is considered existing even if the marriage took place after the conclusion of the disposition, or the marital relationship ended during the year preceding the insolvency ruling.

As for the behaviors that may not be judged not to be enforceable are :

The actions that the debtor concludes in good faith within two basic determinants of good faith, which are:

The disposition occurs after the debtor has settled the debts with all the creditors for the purposes of conducting his business.

There is a reason to believe that the act will benefit the debtor's business.

- a) The actions that the debtor enters into in the course of his usual business.
- b) Guarantees and security rights that are subject to protection under the special rules that apply to financial contracts (and their applications include good performance guarantees issued by the debtor to conduct his business).

In fact, under act 33 / H is loose in terms of not arranging nullity on the debtor's actions if they were done in good faith, because the criteria taken by the legislator are insufficient, and what if the act was in good faith but caused harm? Wasn't it one of the behaviors that were not enforced? All of these questions are discussed in this law and noted.

## Second Branch

### Claim for non-performance of the debtor's actions and conditions

Act 34 states that the action for non-enforcement of disposal is instituted by the insolvency agent during the insolvency proceedings, that is, of course after the insolvency ruling. The lawsuit within a period of two months from being notified, the creditor may file the lawsuit, and he becomes the owner of an interest and capacity in its establishment, and litigating the claim that the debtor's disposal and the parties did not enforce the disposition, as well as the third parties to whom the money was transferred from the disposer to the contracting with the insolvent debtor. (Al-Sanhoury, 1968)

The legislator considered the claim of non-enforcement of the actions of the insolvent debtor; It is therefore not subject to interchange of regulations, and the court must decide on them within six months. As for the courts in the case of non-enforcement of disposal, as stated in Act 35 of the Insolvency Law, the court has the following options:

- 1) Restoring the situation to the way it was, i.e. ruling that the disposal is not enforceable.

- 2) To order the payment of the value of the right or the money estimated at the date of the disposal procedure, in addition to the interest determined by the court in the event the money is transferred to (a third person). This does not prevent the other (third) party from recovering what has been paid to the debtor as a debt in the face of insolvency proceedings when there is good faith, and as a debt lower in priority in the event of bad faith. (Al-Far, 2014)

It remains to say that the decision issued by the court, which judges that the act is not enforceable, is one of the decisions that accept the appeal within a period of fifteen days from the date of its issuance, or from the date it was duly notified. The fact that the decision issued by the Court of Appeal is final, and that the appeal does not suspend the insolvency proceedings.

## CONCLUSION

As we have reached the end of this study, which is tagged with the title “The Effects of Insolvency Judgment According to the Provisions of the Jordanian Insolvency Law (No. 21 of 2018), the study came out with a number of results and recommendations, which we list as follows:

## RESULTS

The study came out with a number of important and necessary results, the most important of which are:

- 1) We found that Insolvency Law No. 21 of 2018.” has canceled the effects that affect the debtor on his person, such as confiscating his freedom and imposing residence on him, and stripping him of his political rights, his right to occupy public office, and membership of councils.
- 2) It has been proven to us that the Insolvency Law No. (21), of 2018.” It was limited to the effects that limit the freedom of the debtor to manage and dispose of his money, and the legislator differentiated between the position of the debtor who submitted the application for publicity from the position of the debtor whose insolvency was requested by the creditors, in the matter of managing his funds.
- 3) The study showed that the legislator has given the insolvent debtor who requests to declare his insolvency, preference in legal position, as s/he kept the right to manage usual funds under the supervision of the insolvency agent. Thus, the debtor in this case has the right to pursue the judicial procedures in the cases brought by and before the courts, whether s/he is a plaintiff or a defendant.
- 4) This study concluded that the insolvency owed funds consist of the money and the material and moral rights belonging to the debtor on or after the date of declaring the insolvency, without including the funds and rights belonging to the natural person, which are excluded from seizure under the provisions of this law. So that the management of the debtor’s funds falls under the control of the insolvency agent, within the limits of the normal conduct of business, and in the manner regulated by the insolvency law in the powers of the insolvency agent.
- 5) We found that the Insolvency Law No. 21 of 2018 “has granted the debtor or the insolvency agent the right to request the termination of the sales contract that he

concluded before declaring the insolvency, provided that the sale has not been delivered, or that the price has been paid.

- 6) It has been proven to us that the Insolvency Law No. 21 of 2018 “has taken care of the store’s lease contract, and made special provisions for it aimed at continuing to engage in economic activity, to the point of deviating from the provisions of the owners and tenants law.
- 7) This study concluded that the legislator, under act 31 of the Insolvency Law, has set a general rule that fixed-term employment contracts are valid until the end of their term, and indefinite contracts remain valid, except that in the text of the second paragraph, the debtor and the insolvency agent have been granted the right to request the court to amend contracts or their termination, provided that the court listens to the opinion of the workers in this regard.
- 8) It has been proven to us that the Insolvency Law No. 21 of 2018 “has established a general rule that the administration contracting with the debtor has the right to terminate the contract, the franchise or the license, based on objective reasons to believe that there are risks related to non-performance of the contract within a rule. To the effect that the declaration of insolvency alone is not a sufficient reason to terminate the contract, as long as the economic activity continues, and there is no doubt that this is a matter of reality and the court is independent of its assessment within the facts and evidence, which may include disclosure, experience and other evidence.
- 9) The study showed that the legislator has granted the insolvency agent the right to file a claim for non-enforceability of the disposition during the insolvency proceedings, that is, of course after the insolvency ruling. Filing the case within a period of two months from being notified, the creditor may file the case, and become the owner of an interest and capacity in its establishment, and litigating the claim that the debtor’s disposal and the parties contracting with him did not enforce the disposal, as well as the third party to whom the money was transferred from the disposer to the contracting with the insolvent debtor.
- 10) This study concluded that the claim of non-enforcement of the actions of the insolvent debtor must be decided by the court within six months, as it is one of the urgent cases; They are not, therefore, subject to the exchange of regulations.

## RECOMMENDATIONS

The study came out with some recommendations, which the researcher hopes the legislator will adopt, which are:

1. We recommend the legislator (within the framework of the insolvency law) to address the impact of work contracts, so that this treatment is more clear and consistent with the provisions of the Labor Law.
2. We hope that the legislator will address the impact on the holders of secured debts with in-kind insurance, in a way that leaves no room for doubt as to the mechanism of their receipt of their debts from the guarantees when they are sold.
3. We hope that the legislator will specify a method for notifying the debtor of the request to implement the contract, and the principle is that the notification is notarized and documented for the purposes of proof, since the effect on it is forfeit.

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