

Le règlement amiable

Introduction :

Le règlement amiable, également connu sous le nom de conciliation, est une procédure préventive de redressement des entreprises en difficulté en Tunisie. Elle vise à trouver une solution concertée entre le débiteur (l'entreprise en difficulté) et ses créanciers pour garantir la poursuite de son activité et éviter la faillite. Cette procédure, était organisée par la loi du 17 avril 1995 (les articles 9 à 17) est actuellement régie par les nouvelles dispositions du code de commerce apportées par la loi de 2016 (articles 422 à 432), offre une alternative plus souple et moins coûteuse aux procédures contentieuses de redressement et liquidation judiciaire.

Problématique : Dans quelle mesure le règlement amiable participe-t-il au sauvetage de l'entreprise en difficulté économique ?

Partie 1: Les conditions exigées et le déroulement de la procédure de règlement amiable:

A) Les conditions exigées pour l'ouverture de règlement amiable:

1.Conditions de forme :

Les conditions de forme sont des étapes administratives et procédurales importantes qui garantissent la validité de la demande.

L'article 417 nouveau du code de commerce a exigé au dirigeant de l'entreprise en difficultés économiques l'écrit d'une demande avec les pièces justificatives qui doit contenir certaines mentions tels que le nom de l'entreprise , son adresse ainsi que son identifiant fiscale etc .pour que le dossier soit complet il doit ajouter tout autre document nécessaire tels que les états financiers les plus récents afin de clarifier la situation financière et aider le juge pour prendre la bonne décision soit par l'acceptation ou le rejet de cette demande après il l'adresse au président du tribunal de première instance.

La demande est rejetée si les documents et données sus indiquées ne sont pas présentés sans motif valable. Le rejet n'empêche pas la présentation d'une nouvelle demande.

2.Conditions de fond :

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