

RESTRUCTURING VENTURES IN COMPANIES AT RISK OF BANKRUPTCY

INTRODUCTION

Achieving and maintaining competitive advantage forces companies to be flexible and creative which allows them to implement efficient transformations in terms of production, operating principles and organizational structure. Nevertheless it is not only development of a company that is related to its continuous adjustment to changes occurring in the company environment.

Fundamental objective of a company is to survive. However, it does not imply that it is sufficient for an organization to maintain its production on the same quantitative and technological levels of the same products for the same clients. If a company does not develop it is bound to fall consequently as it is unable to adapt to market changes. In a long term perspective it needs to strive toward growth through investments, modernization of technologies, manufacturing new products [Wędzki 2003, p. 17].

Inability to solve problems quickly and efficiently, imperception of the need to constantly introduce changes adapting the organization and company operations to new market conditions may cause serious crisis posing threat not only to development but also to survival of the company [Nalepka 1999, p. 7, Borowiecki 1998, p. 22; Mączyńska 2009, p. 23].

Threat to continue operations may be noticed by the managers only at the time when crisis forces to file a bankruptcy petition. Should a company – debtor stand a chance to satisfy claims of creditors to a greater extent than in case of bankruptcy leading to liquidation of the bankrupt's assets, the court shall declare bankruptcy leading to conclusion of agreement. In order to deem likely before the court that the entrepreneur – debtor is in a condition to continue business activity it is required to carefully plan restructuring ventures and to develop agreement proposals along with justification.

Discussion included in the hereby study is based on the conviction that debtor who files a bankruptcy petition leading to conclusion of agreement does not only see legal and economical reasons for implementing it but also is determined to undertake actions in order to maintain the possibility to continue operations. On account of it, the debtor will undertake all (legitimate) actions to prove that they are able to satisfy the claims of creditors and to further conduct business activity. The efforts as part of co-operation with court mean that the debtor will signify that the debtor will strive to provide the best possible information which will increase data transparency of the bankruptcy procedure. In particular it will be reflected in defining directions and means to implement restructuring undertakings as well as in co-operation with court supervisor.

The main objective of the present study is to analyze restructuring ventures of companies at risk of bankruptcy. Attaining this aim may serve to assess the risk of crisis re-occurring as:

- analysis of company's areas of operation which require remedy is prerequisite to conducting effective restructuring,
- restricting a company exclusively to restructuring through insolvency plans may be threatening for its existence in long term.

As part of achieving the main objective attempts were made in order to answer the following questions:

- did the co-operation according to the court supervisor proceed smoothly?
- did the debtor attempt to identify the reasons for the ensuing crisis?
- does the justification of agreement proposal include all subsections stated in article 280 of the Bankruptcy and Reorganization Law (BRL), if not which ones do the simplifications apply to?
- do the changes concern financial or operational restructuring?
- do the managers of the company at risk of bankruptcy declare implementing changes of developmental nature or only remedial ones?

In order to answer the above questions research has been conducted in district courts, in departments conducting insolvency proceedings. The research is a pilot study and comprise part of own research of the author connected with managerial aspects of bankruptcy proceedings. For the purpose of the hereby study the research included documentation of initial, and in case of proceedings leading toward agreement also proper insolvency proceedings collected by the courts conducting them. In these trials restructuring undertakings were indentified. Analysis included 24 cases which is 3.3% of all bankruptcies announced in 2011, in case of 18 of them court announced bankruptcy leading toward agreement which constitutes 17.5% of all bankruptcies leading toward agreement announced in the year of research. Absolute small size of the sample does not allow to statistically generalize conclusions for the entire population of companies at risk of bankruptcy.

1. RESTRUCTURING IN ECONOMIC AND MANAGEMENT SCIENCES

1.1. THE ESSENCE OF COMPANY RESTRUCTURING

Restructuring is the body of changes within a company in reaction to the changing environment of the organization. The purpose of these alterations is to streamline operations of the company.

Restructuring is a multi-dimensional process. It may take place simultaneously in several areas of company operations such as [Brandenburg 2010, p. 97]:

- technical – technological,
- organizational,
- economic,
- legal.

Restructuring can be undertaken in every stage of business life cycle as property, organization and economic changes should take place always when it is necessary.

Restructuring includes activities which aim at survival of the company in short term and its development in longer perspective. Literature of the subject distinguishes the following types of restructuring [Nalepka 1999, p. 23]:

- creative; preceding changes in the business environment and aiming at creating changes,
- anticipating; which results from the company management expecting certain changes to occur and which allows to implement them in advance,
- adaptive; being a speedy reaction to changes which have already taken place in business environment,
- remedial; which is a type of adaptive restructuring. It is however introduced later as an activity to restore the company operation effectiveness.

Remedial restructuring is conducted in companies of poor economic condition, while the remaining types, creative, anticipating and adaptive, in efficient organizations willing to increase their competitiveness. Hence these three types are usually considered jointly as development restructuring (offensive).¹

Consequently, as far as the manner of restructuring is concerned, two types of this process can be distinguished – remedial and development

¹ Some sources treat adaptive restructuring as a separate type being less radical than remedial at the same time being less creative than development one.

[Nowak 2009]. Nevertheless it needs to be highlighted that for companies in crisis remedial restructuring is the starting point.

Remedial restructuring may take place [Nalepka 1999, p. 27]:

- 1) as part of the current company potential by:
 - streamlining management process,
 - improving work organization,
 - increasing product quality,
 - raising employees competencies,
 - developing motivation system;
- 2) as part of reduced (“lean”) company potential by:
 - elimination of inefficient parts of operations,
 - sale of unused assets,
 - utilize assets with participation of other individuals or entities,
 - limiting production range,
 - employment reduction.

Activities as part of development restructuring concern in particular [Nalepka 1999, p. 27]:

- starting new spheres of action,
- change of production range,
- change of markets,
- exchange of suppliers,
- exchange of manufacturing technique and technology,
- perfecting organization structure and management process.

Restructuring can also be divided into financial and operational. Operational includes changes in terms of its implementation and methodology as well as change of organization and management of physical and human resources of the company. Financial restructuring involves also capital and cost structure along with sources of financing business activity. In real life operational and financial restructuring are closely related. Changes in operational activity affect financial sphere. On the other hand, change of managing financial means affects resources and the way a company operates [Garstka 2006, pp. 27–28].

In bankruptcy proceedings restructuring may be restricted to discharging liabilities guarantee. However if the company is expected to survive after agreement execution, deep changes of operational nature should also be implemented.

1.2. COURSE OF RESTRUCTURING PROCESS

In market economy companies are diversified on the grounds of their legal form, nature, size, trade, etc. Diversity of companies, their needs and positions influence the course of restructuring processes they undertake.

Effectiveness of restructuring process requires customization of introduced changes. Its course is also influenced by the type and area of restructuring activities [Brandenburg 2010, p. 97].

In the restructuring process three main stages can be singled out such as [Pacholski, Cempel, Pawlewski 2009, p. 6]:

- 1) identification of the company condition,
- 2) restoration of capability to generate profits allowing the company to survive,
- 3) implementing mechanisms protecting against losing the ability to generate profits.

Identification of the current state of a company is of fundamental importance for the restructuring process. It provides information about the nature and scale of company problems what at the same time is the basis for further stages of the process. This stage makes use of financial and strategic analysis methods and if they are not sufficient detailed techniques of individual functions of an organization are used. For companies experiencing serious crisis appropriate diagnosis of current situation is linked with verifying if there are grounds for filing a bankruptcy petition. Hence, it is simultaneously a stage preceding filing a bankruptcy petition.

After identification of the restructuring need, assessment of the present situation and market position of a company and after strategic analysis it is required to develop restructuring programme which should cover [Brandenburg 2010, p. 98]:

- action plans specifying scope of scheduled changes and individuals responsible for executing them,
- financial plans that is results of restructuring expressed in units of account expected,
- risk analysis,
- schedule of implementing the plan.

In case when it is the debtor to file a bankruptcy petition the planned restructuring ventures should be a part of agreement proposals. Agreement proposals must concern liabilities related issues, yet their justification should include restructuring programme for all sub-systems of company which might cause problems in executing agreement and in surviving of the company after finalized bankruptcy proceedings.

In the next stage the company executes restructuring activities. This stage in bankruptcy proceedings may start already at the initial bankruptcy proceedings, however its major part falls for the proper bankruptcy proceedings. Implementing restructuring activities can and should take place after finalized bankruptcy proceedings especially in case of development activities.

Furthermore, it is also necessary to introduce mechanisms protecting against losing capability to generate expected profits and in case of continuing operations after finalized bankruptcy proceeding – to prevent crisis situations.

1.3. VENTURES OF REMEDIAL AND DEVELOPMENT RESTRUCTURING²

Restructuring ventures should apply to such company sub-systems as:

- 1) company mission and objectives,
- 2) people,
- 3) structure,
- 4) resources and technology,
- 5) other activities.

Restructuring ventures concerning individual sub-systems of an organization depend from the type of restructuring – if it is of remedial or development nature.

Ventures as part of remedial restructuring concerning company **mission and objectives** are usually developed by company management and their character is mostly adaptive. They should lead to warding off the vision of bankruptcy by improving current financial situation. It needs to be emphasized here that for debtors filing bankruptcy petition it will mean efforts avoiding bankruptcy leading to liquidation of assets thanks to restructuring conducted as part of proceeding leading to conclusion of agreement.

The newly created mission and objectives of the company undergoing development restructuring usually take shape of formalized programmes prepared together with consulting companies and approved by management. It embraces aspects connected to company development, increasing profits, raising competitiveness or change of operations scope.

Various approach in case of both types of restructuring concerns the issue of **human resources**. Remedy of a company usually forces substantial reduction of employment, starting from non-production staff and often, due to restricting scope of operations, also production workers directly. Crisis forces employers not only to discontinue salary increases but mostly to lower the remunerations.

Companies in development stage approach the employees-related issue in a different manner. Not only do they focus on utilizing present potential of employed staff but also on investments and raising their professional qualifications and strengthening motivation system. Furthermore, offensive strategy may be connected also with hiring additional employees, finance, marketing or new technologies specialists.

² Division in terms of company sub-system and detailed discussion of restructuring ventures has been dealt with by J. Pasieczny [1997, pp. 33] and later quoted, completed and modified in numerous other papers [among others Nalepka 1998, pp. 28–28, Nalepka 1999, pp. 29–30; Garstka 2006, pp. 25–26; Dźwigoł 2007, pp. 21–22]. Discussion of this subsection has also been broadened by own conclusions of the Author of the present paper (in particular those relating to restructuring in bankruptcy proceeding).

Structure remedial may require among others:

- closedown or joining some organizational units,
- assignment of organized parts together with their economic and legal independence,
- creating responsibility centres, changing operating principles and those concerning holding individuals accountable, development of controlling.

Restructuring of development nature shall determine structure of a company mostly by simplifying it, making it more flexible, by increasing independence of some individuals or by rationalization of IT system.

Remedial restructuring influences ventures in terms of **resources and technology** by:

- restricting or suspending investments,
- sale of redundant assets and more efficient use of those left in the company,
- activities as part of improving quality of produced goods, tightening requirements applicable to suppliers,
- utilizing owned property in undertaking new, risky ventures.

Development restructuring will shape resources and technology by:

- striving after quality improvement,
- investments in new technologies,
- undertaking both viable and company-specific ventures (in crisis situation in order to survive a company may be active in areas not corresponding to its profile only to make profit),
- activities of the organization and management area – streamlining logistic processes, applying management accounting and controlling,
- environment protection activities (which may also improve financial condition).

Other activities as part of restructuring ventures in case of company remedy concern mostly financial issues such as reduction of obligations, attempts to obtain additional means, or negotiations regarding entered agreements which allow to shorten the receivables turnover ratio and extend deadline for meeting payment obligations. In a situation when bankruptcy proceeding is in progress in court the greatest emphasis is placed on activities related to change in obligations payment conditions.

Restructuring ventures – development may concern activities such as financial restructuring, ownership changes and creating new business entities.

To sum up restructuring ventures of a company in its remedial stage are related to reduction of employment, property and obligations as well as activities aiming at greater efficiency with the use of owned resources. Development stage of a company results in new investments in tangible and intangible assets along with processes improving quality, organization and management.

Companies experiencing serious crisis filing a bankruptcy petition in order to survive need to introduce restructuring ventures of remedial nature. Nevertheless, organizations at this stage of company lifecycle should develop strategy of further development. Planning exclusively remedial activities carries a risk that after executing agreement company might not be able to survive in the market conditions. Efficient performance of bankruptcy proceeding not infrequently results from debt reduction. What is more, the process may substantially reduce resources of bankrupt company. Hence, without developing strategy of operations the risk of failure reoccurring still exists.

2. RESTRUCTURING LEGAL BASIS IN BANKRUPTCY PROCEEDING LEADING TO CONCLUSION OF AGREEMENT

Changes in the Bankruptcy and Reorganization Law (BRL) which came into force as of 2 May 2009 are intended to help saving the companies experiencing only temporary financial difficulties. If companies are in a position to satisfy claims of creditors to a greater extent thanks to rehabilitation proceeding or one leading to agreement with creditors, the court will not deprive the organization of the possibility to continue their business activity [Kański 2009].

Bankruptcy proceeding leading to conclusion of agreement is conducted with the aim to satisfy claims of creditors and to restore the company ability to compete on the market. In order to do that company restructuring is necessary. Agreement proposals, which are required to include debtor's liabilities restructuring plan, are submitted to court. Agreement proposals (both before and after the court announcement of bankruptcy) may be filed by the bankrupt, court supervisor, administrator or creditor (BRL, Art. 267–269).

Agreement proposal should specify one or several manners of restructuring obligations along with justification. They may include postponing repayment of obligations, splitting them into instalments, reducing total amount of obligations, debt for equity swap – be it shares or interests depending on the legal form of the debtor, exchange or change or waiving provision securing the specified debt [Działocha-Świetlikowska et al. 2003]. Agreement may also concern satisfying claims of creditors by liquidation of the bankrupt's assets and may stand for take-over of the assets by creditors or other method of liquidation (BRL, Art. 271).

Pursuant to Art. 280 of BRL

reasoning of agreement proposals should:

- 1) describe the company conditions with particular specification of its economic and financial, legal and organizational situations;
- 2) analysis of the market sector where the bankrupt's company operates including market position of competition;
- 3) methods and sources of funding for executing agreement taking into account expected incomes and expenses in the time of executing the agreement;
- 4) level and risk structure analysis;
- 5) persons responsible for executing agreement (names and surnames);
- 6) evaluation of alternative manner of restructuring obligations;
- 7) system of securing rights and interests of creditors for the time of executing agreement.

With the consent of supervising judge it is possible to restrict agreement proposal justification (provided the company specific allows it and it does not affect proper execution of agreement).

The scope of reasoning of the agreement proposals included in Art. 280 of BRL applies mostly to restructuring of obligations (in particular items 3, 5, 6 and 7). It is due to the fact that the reasoning is required to be one of the grounds for the decision if the company is able to execute the agreement and satisfy claims of creditors to an extent greater than in case of proceeding leading to liquidation of assets of insolvent debtor.

Nevertheless, the article refers also to such aspects of restructuring as identification of current state of the company and of its situation not as an entity operating separately from other market players but also in relation to its external environment (items 1, 2 and 4).

To sum up, although the BRL regulations greatly stress restructuring of insolvent debtor's obligations, they do not however restrict the possibilities to attempt restructuring from a far broader and strategic perspective.

3. IDENTIFICATION OF RESTRUCTURING UNDERTAKEN BY COMPANIES AT RISK OF BANKRUPTCY

3.1. SAMPLING PLAN

Research of company restructuring ventures was conducted in 3 courts:

- District Court for Kraków-Śródmieście in Kraków, VIII Commercial Department for Bankruptcy and Reorganization (17 cases),

- District Court for Katowice-Wschód in Katowice, in X Commercial Department (6 cases),
- District Court in Tarnów, in V Commercial Department (1 case).

Research on identification of companies restructuring ventures are part of the Author's own studies on economic aspects of bankruptcy proceedings of organizations.

As part of attaining the aim of the present paper, detailed analysis included bankruptcy proceeding records of cases in which the court announced bankruptcy in 2011 (as in these cases the risk of bankruptcy was later confirmed with the court decision). Records of cases in which companies undertook restructuring ventures and filed bankruptcy petitions leading to conclusion of argument regardless if the court, having examined the case in preliminary bankruptcy proceeding, decided to announce bankruptcy leading to conclusion of agreement or leading to liquidation of insolvent debtor's assets.

The research results are of pilot character. Analysis included 24 cases which is 3.3% of all bankruptcies (723) announced in 2011. The study included cases in which ventures should be undertaken due to the efforts of the debtor to announce bankruptcy leading to conclusion of agreement. The sampling plan embraces:

- 18 cases in which the court announced bankruptcy leading toward agreement which constitutes 17.5% of all (103) cases dated in 2011 for which this type of bankruptcy was announced.³ The group contains 15 cases in which petition for announcing bankruptcy leading toward agreement was filed and the court acceded to the petition and 3 cases in which the debtor files petition for proceeding leading toward liquidation of insolvent debtor's assets however the court announced agreement proceeding.
- 5 cases in which the debtor filed petition for announcing bankruptcy leading toward agreement, yet the court decided to announce bankruptcy leading toward liquidation of insolvent debtor's assets.
- 1 case in which the debtor filed petition for announcing bankruptcy leading toward liquidation of insolvent debtor's assets and the court considered the petition favourably. This particular case however is adequate for analyzing restructuring as the debtor attempted to prove their ability to continue activities and to satisfy creditors' claims to an extent greater than in case of liquidation bankruptcy.

As far as the 18 companies in case of which the court announced bankruptcy leading toward agreement are concerned, analysis covered not only the restructuring ventures undertaken in the initial but also in the proper bankruptcy proceeding.

³ The sample is numerous percentage-wise however due to its small absolute number it does not allow for fully justified generalization of conclusions embracing entire population.

In the studied sample bankruptcies according to legal forms were as follows:

- 17 limited liability companies (70.8%),
- 3 entrepreneurs (12.5%),
- 2 general partnerships (8.3%),
- 1 joint-stock company (4.2%),
- 1 other form of business activity (limited partnership) (4.2%).

The above share of organizations according to the legal forms is similar to the entire population of bankruptcies announced in 2011.

3.2. CO-OPERATION BANKRUPTCY PROCEEDING

As part of the research analysis covered co-operation between the temporary administrator/administrator and debtor/bankrupt as one of the factors potentially influencing successful bankruptcy proceeding. The grounds for determining if the co-operation was satisfactory are reports of the temporary administrator/administrator in the part evaluating the attitude of debtor/bankrupt.

In the analyzed records of bankruptcy proceedings:

- In 6 cases it is clearly stated by the administrator that entrepreneur undertook full co-operation.
- In 15 cases explicit statement is missing, however records analysis indicates that the co-operation of temporary administrator/administrator with debtor/bankrupt proceeded without any mishaps.
- In 1 case following the request of the administrator management by the bankrupt entity was withdrawn as their activities did not guarantee proper execution of agreement.
- In 2 cases temporary administrator was not appointed and in the proper proceeding it was not specified.

When it comes to the co-operation between temporary administrator/administrator and debtor/bankrupt in vast majority of cases it proceeded unhindered what deserves a positive evaluation.

3.3. IDENTIFICATION OF REASONS FOR THE ENSUING COMPANY CRISIS

In 22 cases debtor made an attempt to identify the reasons for the company crisis. In 2 cases it was restricted to statement that the entity was insolvent as it was unable to settle its obligations promptly.

Among the most frequent reasons given by debtors for the ensuing crisis was the fact that their problems result from the global economic crisis (14

cases). In all analyzed cases for their failure debtors blame external conditions beyond their control, such as:

- drop of demand caused by the global economic crisis,
- conventional penalties for not meeting agreement deadlines (e.g. deadlines missed due to unfavourable weather conditions or unjustly calculated by contractors),
- change of credit policy of banks (e.g. restriction of new loans),
- dishonest contractors and partners,
- illness and death in family and costs related with them,
- change of consumer behaviour (e.g. decline of reading level),
- drop of debtor's product prices resulting from competition growth, crisis or fashion change,
- increase of the resources prices,
- rise of costs of business activity (e.g. fuel prices),
- unfavourable currency exchange rate or fluctuation of currency rate,
- insolvency of contractors,
- inefficient and incompetent staff (e.g. lack of initiative on the part of the employees in their approach towards client, mistakes in accounting),
- decisions of officials (e.g. tax inspections which used different interpretation of the law or disclosed accounting mistakes, sentences for contractors for untimely execution of work, delayed administrative decision regarding construction permit),
- exceptional occurrences (e.g. acts of nature or waterworks failure which damaged equipment).

Opinions of administrators and expert witnesses attract attention to reasons like:

- missing pricing calculations, missing any cost < benefit analysis when making decision,
- flawed business decisions,
- “domino effect” or “credit spiral” effect,
- lack of financial basis.

According to the Author's evaluation, company crisis may be caused by company management errors. Analyzed records may prove other economists' research results regarding low management competencies. The studied sample includes only SME⁴ companies. Despite attempts to improve competencies of this sector⁵ entrepreneurs, the problem of inadequate education, of both those managing small companies and their employees has been proven

⁴ For the micro, small, medium and large enterprise groups, classification criterion pursuant to the *Act on Freedom of Business Activity*.

⁵ Attempts to improve the knowledge of SME entrepreneurs were taken e.g. as part of Sectoral Operational Plan “Human Resources Development” for the years 2004–2006. In the period 20% of all trainings concerned issues related to company management [Szałaj 2010, pp. 197–200].

with numerous scientific researches [Woźniak 2006; Gierusz, Martyniuk p. 93; Polaczek 2010, p. 390].

To summarize, entrepreneurs make the attempt to identify reasons of insolvency, however most commonly they search them in the company environment without acknowledging, or trying to hide, own responsibility for the given situation.

3.4. ELEMENTS OF JUSTIFICATION OF AGREEMENT PROPOSALS

The agreement justification proposals only in 13 cases included all subsections stated in Art. 280 BRL. The element which is most often missing in the justification of agreement proposals is the one concerning analysis of risk level and structure – it was entirely missed in 7 cases. While in 10 out of 13 cases which discussed all subsections risk analysis was limited to:

- statement that risk is low or virtually non-existent,
- short listing of risks connected to further business activity of debtor/bankrupt (e.g. inflation risk, lack of payments from contractors, prolonging contracts execution time, risk of losing employees, or of hiring staff with low qualifications).

Next in order missing element of justification of the agreement proposals is evaluation of alternative method of obligations restructuring. In 6 cases it was entirely omitted and in further 6 debtor/bankrupt stated only that “the proposed restructuring method is the best which is why they do not give any alternative one.”

Moreover, the issue of a system protecting creditors’ rights and interests for the time of executing agreement was skipped four times, while three times the economic and financial as well as organizational situations were vaguely analyzed and market sector analysis was missing twice.

In the studied sample only one case of preparing reasoning for agreement proposals used management sciences achievements creating a full analysis of economic – financial – organizational situation, detailed analysis of the market sector and risk analysis implementing SWOT method.

It should be stressed that from the legal regulations perspective the current state of justifying agreement proposals needs to be regarded as correct because with the official receiver’s consent it is possible to limit the reasoning of the agreement proposals as long as in the official receiver’s opinion it will not affect proper execution of the agreement. However, analyzing company’s chances to survive after finalized bankruptcy proceeding, situation when debtor/bankrupt is unable to positively evaluate their economic and financial situation, strengths and weaknesses, opportunities and threats carries a risk of failure after executed agreement.

3.5. AREAS AND CHARACTER OF PLANNED RESTRUCTURING VENTURES

Among the organizations of which the bankruptcy proceeding records were analyzed, there were restructuring ventures concerning all areas resulting from the management sciences. In some instances the ventures included merely ventures of remedial nature; however cases with planned development changes were noted too.

Restructuring venture concerned both the financial and operational restructuring.

Financial restructuring concerned among others:

- reduction, postponing payment or splitting obligations into instalments,
- recovering amounts due,
- improving current liquidity by winning external sources of financing – loans, entering agreements for factoring services,
- increasing share capital,
- reduction of fixed and variable costs of business activity,
- increasing income.

Operational restructuring concerned among others:

- changes of employment – reduction or more rational use of the employed staff potential in terms of quality and efficiency, strengthening of both financial and non-financial motivation systems,
- scope of activities – change in the operation profile, liquidation of centres generating loss, change of distribution channels,
- company material resources – sale of redundant assets and more efficient use of those left in the company,
- marketing – especially changes of marketing strategy by using Internet marketing tools and potential of employed staff.

Statement of restructuring ventures divided by company sub-systems they concerned and their nature – remedial or development can be found below.

Mission and objectives

a) ventures of remedial nature:

- improvement of the current financial situation and warding off the vision of bankruptcy,
- change proposals were developed by the management of the debtor/bankrupt company;

b) ventures of development nature:

- expanding scope of operation and increasing income,
- developing formalized restructuring programmes approved by the management of the bankrupt entity,
- commissioning audits and preparation of action plans to an external company.

People**a) ventures of remedial nature:**

- employment reduction,
- lowering remunerations level,
- retraining employees,
- expanding scope of duties and responsibilities;

b) ventures of development nature:

- change of human resources management strategy,
- hiring new employees.

Structure**a) ventures of remedial nature:**

- liquidation of centres generating loss,
- expansion and strengthening of marketing services;

b) ventures of development nature:

- change of distribution channels,
- simplification and rationalization of organization structures (e.g. restructuring of accounting department, outsourcing of accounting services).

Resources and technology**a) ventures of remedial nature:**

- sale of redundant property,
- rational management through reduction of operational costs (e.g. introducing saving programmes related to the use of utilities, purchase of products and services, renting production and office space, withdrawal from services of external companies – law office, collection agencies),
- starting activities different from the to-date company profile due to inability to keep the previous one or due to greater profitability of these activities (e.g. selling new products, utilizing new forms of sale – commission, on-line, subcontracting services from customer-provided materials, capitalizing on renting fixed assets),
- tightening requirements applicable to suppliers;

b) ventures of development nature:

- change of suppliers (e.g. diversification of sources, direct import from manufacturers),
- introducing procedures concerning management and accounting and implementing management accounting (e.g. outsourcing of accounting services, estimating costs of business activity, cost < benefit analysis, applying prices calculations, economy forecast, budget planning),
- investments in fixed assets,
- installation of environment-friendly appliances (to reduce costs of business activity with positive influence on the environment at the same time).

Other activities**a) ventures of remedial nature:**

- splitting them into instalments, postponing payment term and reduction of obligations,
- activities aimed at improving liquidity, concluding a factoring agreement, additional bank loans and negotiations to extend the term of trade credit,
- ownership changes (e.g. conversion of debt to shares, establishing a partnership which will be winning orders when the indebted company no longer can take part in tenders),
- reduction of other in-kind costs and representation and advertising expenses,
- attempts to recover amounts due from contracting parties,
- pressurizing the founding body to obtain financial support by increasing share capital;

b) ventures of development nature:

- change of marketing strategy (e.g. addressing client with promotional actions, participation in trade fairs, active pricing management, current market monitoring, analysis of customer and competitors' behaviour introducing marketing action with the use of the Internet on EU markets),
- active searching new markets,
- improving organizational structure by simplifying it,
- ownership changes (e.g. reducing the number of shareholders),
- attempts to win external investor.

4. SYNTHETIC CONCLUSIONS FROM THE STUDIES

In all analyzed cases planned restructuring ventures concerned financial area. It results from the concept of bankruptcy proceedings the aim of which is to satisfy claims of creditors. Hence, all of the proceedings included agreement in which debtor/bankrupt proposed postponing payment, splitting into instalments and reduction of obligations.

Financial restructuring without thorough changes in terms of operations carries a risk of repeated crisis. In three analyzed cases debtor/bankrupt limited their proposal to payment of obligations and recovery of amounts due. In the remaining cases the changes also refer to the operations, however:

- in four cases they are related exclusively to sale or transfer of assets ownership rights to the creditor,
- in seven cases they concern greater changes but only of economical character,
- in ten cases they refer to broader changes exceeding economical character.

The nature of the study does not allow for justified generalization of conclusions to the entire populations, however the fact that only 42% of entities declared operational changes of scope exceeding economical character is a foundation to conduct further research in this field as it signals potential risk of re-occurring crisis in the company.

In all of the analyzed cases the planned restructuring, in line with the bankruptcy proceeding concept, related to the area “mission and objectives” (improvement of the current financial situation and warding off the vision of bankruptcy) and to the “other activities” area (by proposals to delay payment, split into instalments and reduce obligations). Nevertheless, only 3 companies undertook ventures of development character in the “mission and objectives” area and 6 organizations in the “other activities” area.

In 23 cases the agreement proposals were developed by the entity management. In one case an external company was hired to audit the company and prepare restructuring plan.

In the area “People” 13 companies planned changes including two ones planning both remedial and development changes. The major alterations in this area concerned employment reduction – planned in 10 cases which amounts to 42% of studied cases.

In the area “Structure” only 3 companies undertook restructuring ventures, including 2 of remedial and development nature, while only 1 of solely developmental character.

Changes in terms of “Resources and technology” were planned by 21 companies including 13 which planned only remedial ones, 7 organizations both remedial and development and 1 only development. The greatest number of companies planned:

- operational costs reduction (10 cases, being 42%),
- reducing resources (7 cases that is 29%),
- undertaking activities different from the to-date profile (6 cases that is 25%).

Furthermore, in 5 cases (i.e. 21%) the plans included changes in this area of development nature concerning the management and accounting methods. In 4 cases tools of management accounting were implemented. According to the author of the study implementing management accounting should be a common practice in companies. However the study results indicate that the practice of implementing tools of management accounting in Poland is

still unsatisfactory. In the analyzed bankruptcy proceedings simplified tools of management accounting were used (budget planning, cost calculation, pricing calculation, costs < benefits analysis). However due to the company size (micro and small) application of these tools can be regarded as changes of development nature.

There is a prospect that a company after finalizing stage of remedial restructuring undertakes also development activities. Nevertheless, results of conducted research indicate that at the initial stage of bankruptcy proceeding (in cases where records of proper bankruptcy proceeding were studied also in later stages of proceeding) only a part of managers of companies at risk of bankruptcy is aware of and demonstrates the need of development changes. Furthermore, the scope of proposed (and/or implemented) restructuring activities may indicate that evaluation of the current condition and of the necessity to introduce changes is insufficient.

Meeting legal requirements without implementing ventures resulting from theory and practice of company's functioning is at risk of another crisis re-occurring which this time the company might not survive.

SUMMARY

Currently, the aspect changing the most is the mere pace of change. Business environment is undergoing constant, intensive changes which influence the conditions companies operate in. These changes carry the changes for development, opportunities for range-related, technological and organizational changes, opening to new markets, etc. If a company wants to survive it needs to submit to changes, monitor environment and introduce new solutions. If it does not grow in the long term it may face serious crisis or even bankruptcy and total liquidation.

In conclusion, changeability of the environment in which companies operate causes that permanent introduction of changes is a prerequisite not only for their development but also for their survival. Restructuring is even more required when crisis has already arisen in company and has led to court's announcement of bankruptcy.

It should be emphasized that Bankruptcy and Reorganization Law imposes on companies in bankruptcy proceeding certain minimum requirements in terms of restructuring namely, presenting agreement proposals which satisfy creditors' claims to the greatest, ideally 100% extent.

Still, proceeding toward conclusion of agreement means that a company does not cease to exist. If it is to survive after the bankruptcy proceeding it is prerequisite to introduce thorough changes in the company to prevent the crisis situation from re-occurring. If organizations wish to operate in long term they have to develop remedial restructuring plan of the company, both the one required by the regulations restructuring of obligations, and restructuring of operating strategy dictated by rational management. These are stabilizing activities the purpose of which is restoring the company's lost efficiency. It is also necessary to continuously adjust to changes taking place in the economic environment of the company.

Company crisis may lead to file petition for bankruptcy. Simultaneously, it may be a valued stimulus for introducing changes and further development of the company.

The research results indicate that the present state is satisfactory from the point of view of implementing legal regulations. There were, however, problems with identifying the causes of the crisis and conducting comprehensive analysis of strengths and weaknesses of companies as well as opportunities and threats for their operation.

The research sample, due to its size, does not allow for statistical generalisation of conclusions in order to cover the whole population of companies at risk of bankruptcy. Nonetheless, the research results give a clear signal that there is a need for further research in this area.

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